

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1729 of 2021

Arising Out of PS. Case No.-287 Year-2020 Thana- ARA MUFFSIL District- Bhojpur

Munna Kumar @ Munna Sah (male) age about 28 years S/O Late Shambhu Sah R/O Village- Saraiya, P.S. Krishnagarh, District- Bhojpur.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Manish Chandra Gandhi, Advocate
For the Respondent : Ms. Usha Kumari -1, Spl PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 03-06-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

2. Heard learned counsel for the appellant and learned Spl PP for the State.

3. The appellant has preferred the present appeal under Section 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity, *SC/ ST Act*) against the refusal of his prayer for regular bail vide order dated 21.12.2020 passed by learned 1st Additional Sessions Judge, Bhojpur, Ara, in a case registered under Sections 147,148,149,341,342,307,323,324,302, 120B, 504 and 506 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(1)(r)(s) and 3(2)(va) of SC/ST Act, in connection with SC/ST Case No. 240/2020, arising out of Ara Muffasil PS Case No. 287 of 2020.

4. The informant has alleged that his son along with his



two friends had gone to attend a birth day party. Later on, in the night, he received intimation that his son Ranjeet Kumar Rajak and his two friends have been shot at. He found his son dead in the hospital. The two friends were in injured condition. Informant's son Manjeet Kumar Rajak and other friends have allegedly narrated the incident that while at the birth day party of co-accused Raja Babu there was a hot exchange between Raja Babu and Ranjeet Kumar Rajak (deceased). Co-accused Raja Babu had threatened Ranjeet Kumar Rajak that he would not return home alive. While on way back Ranjeet Kumar Rajak along with his friends have allegedly been surrounded by co-accused Raja Babu and all the other accused persons, and indiscriminately fired upon.

5. The learned counsel for the appellant submits that allegation of indiscriminate firing by 11 accused persons is not corroborated by the injuries sustained by the deceased or injured. The deceased has suffered two gun shot injuries. The other injured, namely, Mukesh Chaudhary and Munna Gond have sustained one gun shot injury each. The instant appellant has no criminal antecedents, as per statements made in the bail application, and he continues to be in custody since 11.09.2020. The FIR itself suggests that there was subsisting rivalry of the deceased with co-accused Raja Babu. It is this co-accused, who had threatened the deceased and, at the time of occurrence, instigated others and himself fired upon the deceased. As per allegations in the FIR and materials collected during course of investigation, the appellant is similarly situated as co-accused, namely, Jitan Kumar. Jitan Kumar has been allowed bail in Cr. Appeal (SJ) No. 1445 of 2021 subject to framing of charges. Charge sheet has been submitted in this case and charges have



been framed on 07.04.2021.

6. The learned Spl. PP for the State has opposed the prayer for bail. He submits that witnesses have stated name of all accused persons, including the appellant as participating in the firing. The postmortem report and confessional statement of co-accused Raja Babu also indicate the appellant's participation in the occurrence.

7. In my opinion, a case for grant of regular bail is made out. The impugned order dated 21.12.2020, passed in connection with SC/ST Case No. 240/2020, arising out of Ara Muffasil PS Case No. 287 of 2020, requires interference by this Court, which is, accordingly set aside.

8. Considering the rival submissions, this appeal is allowed. The impugned order dated 21.12.2020, passed by learned 1st Additional Sessions Judge, Bhojpur, Ara, in connection with SC/ST Case No. 240/2020, arising out of Ara Muffasil PS Case No. 287 of 2020, is set aside.

9. Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Bhojpur, Ara, in connection with SC/ST Case No. 240/2020, arising out of Ara Muffasil PS Case No. 287 of 2020, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail



bond will be liable to be cancelled.

shyambihari/-

(Madhuresh Prasad, J)

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