

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1841 of 2021**

Arising Out of PS. Case No.-329 Year-2018 Thana- BIDUPUR District- Vaishali

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KAMLESH KUMAR Son of Raghunath Ray Resident of Village - Tal
Lakhanpur, P.S.- Desari, Distt.- Vaishali.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Satya Prakash Sinha, Adv.

For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 15-07-2021 Heard Mr. Satya Prakash Sinha, learned counsel

for the appellant and Mr. Sadanand Paswan, learned Special

Public Prosecutor for the State.

This appeal is directed against the order dated

06.01.2021 passed by the learned Additional Sessions Judge

-I-cum Special Judge, Vaishali at Hajiplur in A.B.P. No. 2703

of 2020 arising out of Bidupur P.S. Case No. 329 of 2018,

whereby the prayer made on behalf of the appellant for

grant of anticipatory bail for the offences under Sections

302/120(B) /387/34 of the Indian Penal Code and 3(r)(v) of

SC/ST (POA) Act has been rejected.

The husband of the informant was killed and she



has raised suspicion against some of the persons, who have been named in the F.I.R. The appellant has not been named in the F.I.R. After about three days of the occurrence, the appellant was arrested in another case in which he was made to confess about his participation in the present case. However, despite that, the appellant was never remanded in this case. After about two years, the police has filed the requisition for issuance of warrant of arrest against him.

The learned counsel for the appellant has submitted that one of the co-accused of this case, who also was named during the course of investigation, has been granted anticipatory bail by a Bench of this Court. Apart from this, it has been submitted that the accusation against the appellant is based solely on suspicion and on extracted confession of a co-accused. There is no justification for not remanding the petitioner in this case after the confession. Waiting for two years to obtain warrant against the appellant speaks volumes about the malafide intention of the police. There is no accusation in the F.I.R. or in the investigation papers, it has been argued, which could attract the mischief



of SC/ST (Prevention of Atrocities), Act.

For the reasons afore-stated, the order dated 06.01.2021 passed by the learned Additional Sessions Judge -I-cum Special Judge, Vaishali at Hajiplur is set aside.

The appeal stands allowed.

The appellant, above named, is directed to be released on bail in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt /production of a copy of this order on his furnishing bail bonds in the sum of Rs. 10,000 (Rs. Ten Thousand) with two sureties of like amount each to the satisfaction of learned Additional Sessions Judge -I-cum Special Judge, Vaishali at Hajiplur, in connection with Bidupur P.S. Case No. 329 of 2018.

(Ashutosh Kumar, J)

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