

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.2282 of 2021**

Arising Out of PS. Case No.-256 Year-2020 Thana- SAHPUR District- Patna

RAKESH KUMAR @ KALLU Son of Late Budhan Rai Resident of Village -
Kotthiyan, P.S.- Sahpur, Distt.- Patna.

... .. Appellant

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Appellant/s : Mr. Arvind Kumar, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 05-07-2021 Learned counsel for the appellant undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellant and learned Spl. P.P. for the State.

Appellant in the present case is seeking to set aside the order dated 26.02.2021 passed by learned Additional District and Sessions Judge-III-cum-Special Judge, SC/ST Act, Patna in connection with Special Case No. 42 of 2021 arising out of Shahpur P.S. Case No. 256 of 2020 registered for the offences punishable under Sections 302 and 393 of the Indian Penal Code and 3(2) (va) of SC/ST Act whereby and whereunder his prayer for bail was rejected.



As per the prosecution story the informant has alleged that his father was sleeping in his room when an unknown person aged between 25-30 years entered into his house for commission of theft. On hearing some sound, father of the appellant woke up and when he protested, this unknown person has stabbed him with a knife and fled away. His father was taken to the hospital where he was declared brought dead.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. It is further submitted that the appellant is not named in the F.I.R. and during investigation it has transpired that the co-accused Monu Kumar had stabbed the father of the informant. Learned counsel submits that the appellant had not even entered into the house of the informant and has been named in this case on mere suspicion. It is submitted that the appellant is in custody since 03.10.2020.

Learned Spl. P.P. for the State has opposed the prayer for regular bail of the appellant.

Having regard to the facts and circumstances of the case wherein it is the submission of learned counsel for the appellant that this appellant is not named in the F.I.R., the informant says that his father was stabbed by a person who was



trying to commit theft in the house, in course of investigation it has transpired that the person who had stabbed the father of the informant is co-accused Monu Kumar, submission being that so far as this appellant is concerned, he had not even entered in the house and is named on mere suspicion, he is in custody in connection with this case since 03.10.2020, investigation against him is complete but the trial is not likely to be concluded in near future, in the only case stated in paragraph '3', he is said to be on bail, in the circumstances this Court sets aside the impugned order and directs release of the appellant above named on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-III-cum-Special Judge, SC/ST Act, Patna in connection with Special Case No. 42 of 2021 arising out of Shahpur P.S. Case No. 256 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and



(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This appeal stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

