

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2324 of 2021**

Arising Out of PS. Case No.-334 Year-2020 Thana- BELDOUR District- Khagaria

1. Chhotu Sharma, S/O Devendra Sharma, Resident Of Village-Beldaur, P.S Beldaur, District-Khagaria
2. Badal Kumar, S/O Roshan Sharma, R/O Village-Tihai, P.S.-Pasraha, District-Khagaria.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Binod Kumar, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

4 19-07-2021 Heard learned counsel for the appellants as well as the learned Special P.P. for the State.

The appellants have preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes Act against the refusal of their prayer for regular bail, vide order dated 17.02.2021 passed by the learned Additional Sessions Judge 1st-cum Special Judge, SC/ST Act, Khagaria, in connection with Beldaur P.S. Case No.334 of 2020 instituted for the offence under Sections 302, 34, 120(B) of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of the SC/ST Act and also for setting aside the aforesaid order dated 17.02.2021.



The informant has alleged that her husband had gone for a morning walk with one Sikendra Gupta. He has been shot dead near the orchard of one Vedanand Singh. The informant has alleged that her husband was a social worker and had earlier been elected as a member of Panchayat *Samiti* and had no enmity with anyone.

Learned counsel for the appellants submits that the appellants are not named in the F.I.R. During investigation, in course of examination of co-accused, appellants' name have surfaced. Co-accused Sunil Sharma in his confessional statement has stated that he along with co-accused Durgesh shot the deceased. The motive of the land dispute is also inconsistent during the course of investigation. The appellants have no criminal antecedents and other than suspicion, no material has come in course of investigation to link them with the occurrence. Co-accused Pintu Kumar Bhagat @ Pintu Kumar, similarly situated as the appellants, has been allowed bail in Cr.Appeal(SJ) No.2549 of 2021, vide order dated 24.06.2021. Appellant No.1 and 2 are stated to be in custody since 19.12.2020 and 17.12.2020, respectively.

Learned Special P.P. has submitted that from the case diary it appears that the appellants had role in the conspiracy



which has led to killing of the informant's husband.

Considering the rival submissions, this Court is inclined to allow appellants' prayer for bail.

Accordingly, let both the appellants, above named, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge 1st-cum Special Judge, SC/ST Act, Khagaria, in connection with Beldaur P.S. Case No.334 of 2020, subject to the following conditions:-

- (i) That one of the bailors will be a close relative of the appellants who will give an affidavit giving genealogy as to how he is related with the appellants. The bailor will also undertake to inform the court if there is any change in the address of the appellants.
- (ii) That the appellants will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.

In the result, the appeal is allowed and the impugned order dated 17.02.2021 is set aside.

This Court would expect that the appellants' counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks



from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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