

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2375 of 2021

Arising Out of PS. Case No.-249 Year-2020 Thana- BIKRAMGANJ District- Rohtas

1. Rakesh Kumar, S/O Jag Narayan Prasad Singh,
 2. Rahul Kumar, S/O Satya Narayan Singh,
- Both are R/O Village-Sikariya, P.S- Bikramganj, District-Rohtas.

... .. Appellants

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Rejendra Narain, Sr. Adv.
	:	Mr.Nagendra Upadhyay, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, Spl. PP
For the Informant	:	Mr. Kamal Kr. Sinha, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 17-08-2021 Heard the parties through virtual Court proceedings.

The appeal has been filed by the appellants against the order dated 27.02.2021 by the learned 1st Additional District and Sessions Judge cum Special Judge S.C./S.T. Act, Rohtas at Sasaram whereby the prayer for bail of the appellants were rejected, in connection with registered Case No. 255/2020 arising out of Bikramganj P.S. Case No. 249/2020 registered for the offences under Sections 147, 148, 149, 302, 120(B) of the Indian Penal Code and under Sections 3 (i)(r) (s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and Section 25 (1-B)(a), 26, 35, 27 of the Arms Act.

The prosecution case, in brief is that as per FIR, the



younger brother of the informant was going to bring Vegetables from Bikramganj market by crossing the river at Kashighat and at that time, informant was also going to his house by closing his shop, when informant reached at Kashighat situated at Kau river at that time appellants and other accused persons began to scuffle with his brother thereafter hearing the noise the informant stopped at some distance then the brother of the informant by getting free from them began to flee away and when he ran way some distance three accused persons armed with country made pistol made fire upon him due to which he killed.

Learned senior counsel for the appellants submits that the appellants are innocent and has been committed no offence in this case. As per prosecution case, specific firearm injury is attributed against co-accused, namely Pintu Yadav, Pawan Kumar Singh and Rakesh Kumar (appellant no.1). He further submits that in re-statement of the informant in paragraph 4 of the case diary, he specific stated that co-accused Pintu Yadav fired upon the back of the deceased thereafter, Pawan Kumar Singh and Rakesh Kumar (appellant no.1) also fired upon the head of the deceased. He further submits that the postmortem report shows that on head only one injury. The co-



accused, namely Pawan Kumar Singh has been granted bail by a co-ordinate Bench of this Court vide order dated 13.06.2021 passed in Cr. Appeal (SJ) No.2221/2021.

Learned counsel for the informant and respondent vehemently opposed the prayer for bail and submits that there is specific allegation against appellant no.1 (Rakesh Kumar) who fired upon the deceased. The name of the appellant no.2 in the FIR and re-statement is also there, there is no specific overt act against the appellant no.2.

Considering the aforesaid facts and circumstances of this case, let the appellant no.2, above named is directed to be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with Bikramganj P.S. Case No. 249/2020.

Therefore, considering the facts, let the appellant no.1, above named is directed to be released on bail **after framing of charge** on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with Bikramganj P.S. Case No. 249/2020.



Accordingly, the order dated 27.02.2021 is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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