

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.2245 of 2021**

Arising Out of PS. Case No.-136 Year-2020 Thana- KARAI PARSURAI District- Nalanda

DEENA THAKUR @ DEENANATH THAKUR S/o Sinnan Thakur R/o
Jalalpur, P.S.- Karai, Parasurai, District- Nalanda.

... .. Appellant

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Appellant/s : Mr.Patanjali Rishi, Advocate

For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

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

3 16-07-2021 Heard learned counsel for the appellant and Mr. Binay Krishna, learned Special Public Prosecutor for the State.

The appellant, in the present case, is seeking setting aside the order dated 02.03.2021 passed in connection with Karai Parasurai P.S. Case no. 136 of 2020 by the learned Additional District & Sessions Judge – I – cum – Special Judge, Scheduled Castes & Scheduled Tribes Act, Nalanda registered for the offences under Sections 362, 365 read with 34 of the Indian Penal Code and Section 302 and 201 of the Indian Penal Code and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was added.

Learned counsel for the appellant submits that on a bare perusal of the First Information Report it would appear that



the informant has named altogether six persons against whom he has raised suspicion on the ground that earlier they had threatened the informant that his son would be killed.

Learned counsel submits that according to the informant his son was playing outside the house at 6:30 P.M. but thereafter he was not seen. It is his further submission that the whole case is based on mere suspicion as nobody has come forward in course of investigation to say that any of them had seen the appellant with the son of the informant whose dead body has been found later on.

Mr. Binay Krishna, learned Special Public Prosecutor for the State has gone through the case diary, he has referred paragraph 4, 11 and 34 and submits that in the case diary there is no witness who has seen the appellant taking away the son of the informant. It is further informed that the name of the appellant has transpired for the reason that both the parties had a dispute over right to way.

Considering the facts and circumstances of the case wherein this case seems to be based on suspicion at this stage, in the case diary no witness has turned up to say that the deceased son of the informant was seen with the appellant at any point of time, appellant has otherwise no criminal antecedent and has



remained in jail in connection with this case since 20.11.2020, investigation against him is complete but the trial is not likely to take place in near future, 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 & Sessions Judge – I – cum – Special Judge, Scheduled Castes & Scheduled Tribes Act, Nalanda in connection with Karai Parasurai P.S. Case no. 136 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.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

