

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 2803 of 2021**

Arising Out of PS. Case No.-319 Year-2020 Thana- PUPRI District- Sitamarhi

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GANESH SAH S/O SAHINDRA SAH R/O VILLAGE KOELI, P.S-
NANPUR, DISTRICT-SITAMARHI.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr Amit Kumar Jha, Advocate
For the State	:	Ms Usha Kumari I, Special PP
For the Informant	:	Mr Pushpendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 03-08-2021

This case has been listed today for consideration through Video Conferencing.

2 Heard learned counsel for the appellant, informant and the learned Special Public Prosecutor (for brevity, *Special PP*) appearing for the State of Bihar.

3 The appellant has preferred the present Appeal under Section 14 - A (2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for brevity, SC/ST Act), 1989 against the refusal of his prayer for regular bail vide order dated 01.03.2021 passed by Additional Sessions Judge I -cum- Special Judge, SC/ST Act, Sitamarhi in a case registered under Sections



341, 323, 324, 302/34 of Indian Penal Code and Sections 3 (1) (r) (s) (w)(1)/3 (2) (va) of SC/ST Act in connection with Pupri Police Station (for brevity, *PS*) Case No 319 of 2020 dated 24.10.2020.

4 The First Information Report (for brevity, *FIR*) is that the informant's daughter was second wife of co-accused Pramod Kumar. It is stated that she was being tortured ever since her marriage which has been solemnized five years back; and was being denied even maintenance and allowances for her own needs. It is the case of the informant that Pramod Kumar had married twice. Prior to his marriage with the victim, he was married to Sunita Kumari and that the said Sunita Kumar also used to harass his daughter.

5 The learned counsel for the appellant submits that the murder has been found to be done in a brutal manner. The *FIR*, however, itself discloses that the victim was residing in a rented premises with her husband Pramod Kumar. The appellant is brother of Pramod Kumar's first wife Sunita Kumari. Merely, by virtue of his relationship with Sunita Kumari, he has been implicated in this case though he has no concern with the affairs of his sister with her husband, or the alleged second wife. The investigation also has not revealed any material against the instant appellant. It is further submitted that the appellant is a man of



clean antecedent, as per statement made in the Memo of Appeal. He is stated to be in custody since 21.01.2021 and even paragraph 9 of the case diary does not disclose the appellant's involvement in any way.

6 Learned Special PP as well as learned counsel for the informant have drawn attention of the Court towards paragraph 9 of the case diary. The landlord has stated about seeing 4 to 5 persons and one female fleeing away from the place of occurrence on the date and time of alleged occurrence. Submission is that the killing cannot be attributed only to the husband of the victim, namely, Pramod Kumar and, therefore, the role of others including the appellant cannot be ruled out.

7 In my opinion, in view of nature of accusation in the FIR, and submission of parties, a case for grant of regular bail is made out. The impugned order dated 01.03.2021 requires interference by this Court, which is, accordingly, set aside.

8 This appeal is allowed. The impugned order dated 01.03.2021 passed by Additional Sessions Judge I -cum- Special Judge, SC/ST Act, Sitamarhi in connection with Pupri PS Case No 319 of 2020 dated 24.10.2020 is set aside.

9 Let the appellant above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with



two sureties of the like amount each to the satisfaction of Additional Sessions Judge I -cum- Special Judge, SC/ST Act, Sitamarhi in Pupri PS Case No 319 of 2020 dated 24.10.2020 subject to the following conditions:

(1) 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 appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(2) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.08.2021
Transmission Date	04.08.2021

