

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)  
CRIMINAL APPEAL (SJ) No.2889 of 2021**

Arising Out of PS. Case No.-379 Year-2020 Thana- SAHEBPUR KAMAL District-  
Begusarai

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1. NITISH KUMAR DAS @ NITISH KUMAR, Son of Makhru Das @ Makru Das, Resident of Village - Musechak, P.S.- Sahebpur Kamal, District - Begusarai
  2. Bangali Das, Son of Late Baunu Das, Resident of Village - Musechak, P.S.- Sahebpur Kamal, District - Begusarai

... .. Appellants

Versus

The State of Bihar

... .. Respondent

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**Appearance :**

For the Appellant/s : Mr.Abul Kalam, Advocate  
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

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

3      01-09-2021                      Heard learned counsel for the appellants and Mr.  
Sadanand Paswan, Special P.P. for the State.

The appellants in the present case are seeking setting aside of the order dated 20.04.2021 passed in Sahebpur Kamal P.S. Case No. 379 of 2020 (G.R. No. 1272 of 2020), CIS No. 200 of 2020 registered for the offence punishable under Sections 302/34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of the SC/ST (POA) Act by learned Special Judge, SC/ST (PAO) Act, Begusarai whereby and whereunder the prayer for regular bail of the appellant has been rejected. They are in custody since 10.03.2021.

As per the prosecution story, when the father of the

informant was sleeping in his room on 04.12.2020, at about 11.00 P.M. there was a hulla that his father has been shot dead. The informant and his family members reached there and found that his father had been shot dead and there were bullet injuries on various parts of the body. The informant claims that his father was taken to the hospital where he was declared dead and with the dead body of his father he reached the Police Station and lodged the F.I.R. In the F.I.R., the informant claims that his co-villagers Bablu Pandit, Manoj Pandit and Bipin Pandit had conspired and in furtherance of that conspiracy they have killed his father. The informant also claims that his father has no prior enmity with Bablu Pandit and others.

Learned counsel for the appellants submits that in course of investigation the name of these two appellants have been brought by Police alleging that in order to take revenge from Bablu Pandit, the appellant no. 2 who happens to be the cousin brother of the deceased had acted along with his nephew who is appellant no. 1, killed the father of the informant and pressurized the informant to give the name of Bablu Pandit and others as an accused. The Police has now come out with a case that the son of appellant no. 2 has been involved in a case lodged by Bablu Pandit alleging that his daughter was raped and in the said case the son of appellant no. 2 is still in jail, therefore, in order to take revenge

from Bablu Pandit, the present killing was done. The allegation of pressurizing is highly suspicious because the informant reached the Police Station directly from the hospital with the dead body.

Learned counsel further submits that the reason now being advanced by the prosecution is against a common sense and is highly improbable that to take revenge from Bablu Pandit the appellants who have otherwise no motive and enmity will kill their own family members. The deceased was grand father of appellant no. 1 and cousin of appellant no. 2 with whom the appellants had no enmity.

Mr. Sadanand Paswan, learned Special P.P. for the State has opposed the prayer for bail of the appellants. It is submitted that in course of investigation police has come out with a case that these two persons had killed the deceased in order to take revenge from Bablu Pandit, however, learned Special P.P. also informs that in the case diary there is no eye witness and nobody has seen the appellants either going to the place of occurrence or fleeing away from the said place. In paragraph '8' of the case diary the statement of the wife of the deceased is recorded and she has categorically stated that nobody has seen the occurrence.

Considering the facts and circumstances of the case, in the nature of the materials which have been brought to the notice of this Court and as has been noticed hereinabove, this Court sets-aside the impugned order and directs release of the appellant above named on bail on furnishing bail bond of Rs. 25,000/-

(Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (PAO) Act, Begusarai in connection with Sahebpur Kamal P.S. Case No. 379 of 2020 (G.R. No. 1272 of 2020, CIS No. 200 of 2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

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 disposed of.

**(Rajeev Ranjan Prasad, J)**

vats/-

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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'.