

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3246 of 2021

Arising Out of PS. Case No.-106 Year-2021 Thana- KHAGARIA District- Khagaria

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NASIMUDIN @ NASIM UDDIN @ HIRA @ MD. NASIM UDADIN S/o
Jamil Ahamad R/o village- Rangpura, P.S.- Mirganj, District- Purnia

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Arun

For the Respondent/s : Mr.Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 17-08-2021 This matter is taken up for consideration through
Video Conferencing.

Heard learned counsel for the appellant and the State.

The present memo of appeal has been filed on behalf of the appellant for grant of bail against the order dated 17.06.2021 passed by learned Additional Sessions Judge Ist-cum-Special Judge (SC/ST Act), Khagaria in connection with Khagaria (Muffasil) P.S. Case No. 106 of 2021 under Sections 302, 279 of the Indian Penal Code and section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for bail of the appellant was rejected.

Prosecution case in brief is that some unknown criminals hired the vehicle and killed the son of informant



(driver of vehicle) by throttling and looted the vehicle.

It is submitted on behalf of the appellant that appellant is not named in the FIR. Name of appellant has come on the basis of confessional statement of co-accused Abid Hussain. Save and except confessional statement there is no other substantive evidence to suggest the complicity of appellant in the alleged occurrence. No incriminating article has been recovered from conscious possession of this appellant. Appellant has not been put on Test Identification Parade till date. Only material that has come against this appellant is that he was contacted by the co-accused persons for disposal of the vehicle. No case under SC/ST Act is made out, as there is no allegation that this appellant has abused the informant by caste name. Appellant has got clean antecedent and he is in custody since 20.02.2021. Chargesheet has already been submitted.

Considering the aforesaid facts, this appeal is allowed. The impugned order dated 17.06.2021 passed by learned Additional Sessions Judge Ist-cum-Special Judge (SC/ST Act), Khagaria is set aside.

Let the appellant above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned



Additional Sessions Judge Ist-cum-Special Judge (SC/ST Act),
Khagaria in connection with Khagaria (Muffasil) P.S. Case No.
106 of 2021, subject to following conditions:-

(i) The appellant shall co-operate in the trial and shall
be properly represented on each and every date fixed by the
court and shall remain physically present as directed by the
Court and in the event of failure on two consecutive dates
without sufficient reasons, his bail bond shall be liable to be
cancelled by the court below.

(ii) If the appellant tampers with the evidence or the
witnesses of the case, in that case, prosecution will be at liberty
to move for cancellation of bail of the appellant.

(Prabhat Kumar Singh, J)

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