

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.3021 of 2021**

Arising Out of PS. Case No.-205 Year-2020 Thana- FATEHPUR District- Gaya

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Lallan Yadav Son of Khizu Yadav Resident of Village - Puna Kala, P.S. -
Paraiya, District - Gaya.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr.Shivendra Prasad,Advocate

For the Respondent/s : Ms.Usha Kumari 1,Spl.P.P.

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

3 02-08-2021 Learned counsel for the appellant undertakes to remove all

the defects pointed out by the Stamp Reporter within four weeks

after start of normal functioning of the Court.

Heard learned counsel for the appellant and Ms. Usha
Kumari 1, learned APP for the State.

The appellant in the present case is seeking setting aside
of the order dated 19.03.2021 passed by learned Exclusive Special
Judge SC/ST, Gaya in connection with B.P. No. 147 of 2021 arising
out of Fatehpur P.S. Case No. 205 of 2020 registered for the offences
punishable under Sections 302, 201/34 of the Indian Penal Code and
Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act whereby and whereunder the prayer for
bail of the appellant was rejected.

Learned counsel for the appellant submits that as per the
prosecution story the second son of the informant was driving the

four wheeler of one Sachin Podh. He used to return in the night around 7-8 P.M. but on 25.08.2020 he did not come back. The informant was told by Sachin Podh that the son of the informant had proceeded for home by scooty at 06:45 P.M. It is further alleged that the informant learnt from said Sachin Podh that at about 09:00 P.M. this petitioner along with 2-3 others had come in search of the son of the informant. They stated that co-villager of the informant namely Dheeraj Paswan and daughter of one Birendra Yadav had fled away and since then the family of the informant was being threatened.

The informant further alleged that when another son of the informant, namely Randhir Paswan along with others went to the residence of Birendra Yadav in village Dharmsi Bigha to enquire about the deceased, the said Birendra Yadav and other co-accused persons surrounded the members of the informant's side and abused them and told that the son of the informant would not return until the daughter of Birendra Yadav comes back. In the next morning the chaukidar of Paraiya police station reported that the son of the informant had been killed and his dead body was thrown.

Learned counsel submits that the thrust of the allegation in the FIR is against co-accused Birendra Yadav who has already been granted privilege of anticipatory bail by a learned Co-ordinate Bench of this Court vide order dated 12.04.2021 in Cri. Appeal (SJ) No. 401 of 2021.

Learned counsel further submits that save and except mere

suspicion there is no material against the appellant. One of the co-accused similarly situated namely Deepu Kumar has been granted bail by another learned Co-ordinate Bench of this Court in Cri. Appeal (SJ) No. 564 of 2021.

Learned Spl.P.P. for the State has though opposed the prayer for bail of the appellant but considering the facts and circumstances of the case, there being no other material save and except the allegation that this appellant was one among the co-accused who had surrounded the another son of the informant and others who had gone at the door of Birendra Yadav to find out whereabouts of the deceased (son of the informant), the appellant has no criminal antecedent and co-accused similarly situated has been granted bail, the appellant has remained in custody in connection with this case since 19.03.2021, 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 on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST, Gaya in connection with Fatehpur P.S Case No. 205 of 2020, subject to the conditions 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 is suspected, and

(c) that such persons shall not directly or indirectly make and 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.

The appeal stands allowed.

(Rajeev Ranjan Prasad, J)

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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'.