

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1957 of 2020

Arising Out of PS. Case No.-244 Year-2020 Thana- UDWANTNAGAR District- Bhojpur

1. BIRENDRA OJHA son of Late Nathuni Ojha Resident of Village-Aroua, P.O.-Dularpur, P.S.-Udwantnagar, District-Bhojpur.
2. Surendra Ojha Son of Late Nathuni Ojha R/o Vill.-Aroua, P.O.-Dularpur, P.S.-Udwantnagar, District-Bhojpur.
3. Pradeep Ojha Son of Birendra Ojha R/o Vill.-Aroua, P.O.-Dularpur, P.S.-Udwantnagar, District-Bhojpur.
4. Mini Ojha @ Pramod Ojha Son of Birendra Ojha R/o Vill.-Aroua, P.O.-Dularpur, P.S.-Udwantnagar, District-Bhojpur.
5. Subodh Ojha Son of Birendra Ojha R/o Vill.-Aroua, P.O.-Dularpur, P.S.-Udwantnagar, District-Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Ganesh Prasad Singh
For the Respondent/s	:	Mr. Sadanand Paswan Mr. Surendra Singh Mr. Vivek Kr. Singh

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 18-01-2021 Heard learned counsel for the parties.

This appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has been preferred against the order dated 26.08.2020, passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara, in Udawantnagar P.S. Case No. 244 of 2020, corresponding to SC/ST Case No. 173 of 2020, whereby the appellant's prayer for regular bail has been



rejected.

The appellants are in custody since 12.07.2020. 18 persons have been named in the FIR including these appellants. It is alleged in the FIR that when the informant and her family members including her husband were planting paddy in her field, FIR named accused persons variously armed, assembled there. Allegedly, on the instigation of co-accused Rajnish Ojha, co-accused Kamlesh Ojha opened fire with his rifle. The informant's husband sustained fire-arm injuries and died during course of treatment at PMCH.

Learned Senior Counsel appearing on behalf of the appellants has argued, referring to the First Information Report, that there is no specific overt act alleged against these appellants. Co-accused Rajnish Ojha has been described as the order giver, on whose instigation co-accused Kamlesh Ojha allegedly opened fire leading to fire-arm injuries sustained by the deceased. He has further submitted that with similar allegation, co-accused Swayam Prakash Ojha, Om Prakash Ojha and Sasikant Ojha have been allowed privilege of regular bail by this Court by order dated 06.01.2021, passed in Cr. Appeal No. 2162 of 2020.



Learned counsel appearing on behalf of the informant has opposed the prayer for regular bail and has submitted that the allegations made in the FIR do constitute commission of offence under the various provisions of Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act against these appellant and, therefore, they do not deserve privilege of regular bail.

On careful perusal of the FIR, I find substance in submission made on behalf of the appellants that there is no allegation of specific overt act against these appellant. The case of these appellants cannot be distinguished from the cases of those who have been allowed regular bail under the orders of this Court dated 06.01.2021, as noted above.

Considering the aforesaid circumstance, the impugned order dated 26.08.2020 requires interference by this Court, which is accordingly set aside. A case for grant of regular bail is made out. This appeal is allowed.

Let the appellants, above-named, be released on bail on furnishing bail bonds of Rs. 10,000/-(ten thousand), each with two sureties of the like amount, each to the satisfaction of learned 1st Additional Sessions Judge, SC/ST Act, Bhojpur at Ara, in Udawantnagar P.S. Case No. 244 of 2020,



corresponding to SC/ST Case No. 173 of 2020.

Rajesh/- **(Chakradhari Sharan Singh, J)**

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