

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.3037 of 2021**

Arising Out of PS. Case No.-19 Year-2020 Thana- BITHAN BAZAR District- Samastipur

AJAY MUKHIYA Son of Japan Mukhiya, Resident of Village - Sardehi, P.S.-  
Alauli, Distt.- Khagariya.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Abhay Shankar Singh, Adv.  
For the Respondent/s : Mr.Binay Krishna, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**ORAL ORDER**

2      24-09-2021                      Heard learned counsel for the appellant and learned  
Special P.P. for the State through virtual Court proceedings.

This is an appeal under Sections 14 (A) (2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act, 1989 against the refusal of prayer for bail vide order dated 06.11.2020 passed by the learned Special Judge (S.C./S.T. Act), Samastipur, in connection Bithan P.S. Case No. 19 of 2020 registered under Sections 302, 120(B) of the Indian Penal Code, Section 27 of the Arms Act and Sections 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Prosecution case is that while the father of the informant was returning home on motorcycle alongwith the informant, six miscreants on three motorcycles intercepted him,



asked his name and one of the miscreants shot him as a result of which he died on the way to hospital. It is further alleged that four named accused persons with whom informant's father has animosity have committed murder of his father.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in this case. He further submits that appellant is not named in the FIR, his name surfaced during the course of investigation, on the basis of confessional statement of co-accused, namely, Nasruddin Sah, which has no evidentiary value. It is further submitted that save and except confessional statement, there is no cogent material to show the complicity of this appellant with the aforesaid crime. There is no offence under SC/ST Act is made out against the appellant. There is inordinate delay of two days in lodging the case without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. He further submits that similarly situated co-accused have been granted bail by different co-ordinate Benches of this Court (Annexure-2 Series). Appellant has been languishing in custody since 12.10.2020 and has 10 criminal antecedents which is mentioned in para 3 of the bail application.



Learned Special P.P. for the State opposed the prayer for bail.

Considering the aforesaid facts, let the appellant, above named is directed to be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of Special Judge SC/ST Act, Samastipur in connection with Bithan P.S. Case No. 19/2020; subject to the following conditions:

(1) that one of the bailors will be a close relative of the appellant, who will be given an affidavit giving genealogy as to how he is related with the appellant. He will also undertake to inform the Court if there is any change in the address of the appellant.

(2) that the bailor shall also state on affidavit that he will inform the Court concerned if the appellant is implicated in any other case of similar nature after his release in the present case and thereafter the Court below will be at liberty to initiate proceeding for cancellation of bail on the ground of misuse.

(3) that the appellant will be well represented on each and every date fixed in the case and if he fails to do so on two consecutive dates his bail bond will be liable to be cancelled.



(4) that the appellant shall co-operate with the investigation, if not already concluded and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

Accordingly, the impugned order is set aside and this appeal is allowed.

**(Anjani Kumar Sharan, J)**

amitkumar/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

