

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3031 of 2021**

Arising Out of PS. Case No.-197 Year-2019 Thana- TARARI District- Bhojpur

Kamlesh Kumar Yadav @ Kamlesh Yadav, aged about 30 years, Male, Son of
Umesh Yadav R/o-Rajpur, P. S.-Imadhpur, Distt.- Bhojpur (Ara).

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ghanshyam Tiwary, Adv.

For the Respondent/s : Mr. Sadanand Paswan, Spl PP

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

3 21-08-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

Heard learned counsel for the appellant and learned Spl PP for the State.

The appellant has preferred the present appeal under Section 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity , *SC/ ST Act*) against the refusal of his prayer for regular bail vide order dated 09.06.2021 passed by learned Additional Sessions Judge-1st



Bhojpur (Ara), in a case registered under Sections, 302/34 of the Indian Penal Code, Section 27 of the Arms Act, and Sections 3(i)(r)(s), 3(2)(va) of the SC/ST, in connection with SC/ST Case No. 171 of 2019, arising out of Tarari P.S. Case No. 197 of 2019.

Six persons have allegedly arrived on two motorcycles. They have abused the informant by caste name. Co-accused, namely, Makhan Yadav, Tinku Yadav and Sunil Yadav shot at the father of the informant, as a result of which, the father of the informant has succumbed to the injury.

The counsel for the appellant submits that there is no allegation of firing against the appellant. He has been implicated in the instant case on account of his association with the said three co-accused. He is accused in two other cases. In the instant case, he is in custody since 07.04.2021. Similarly situated co-accused, namely, Surendra Singh @ Surendra Yadav has been allowed bail in Cr. Appeal (SJ) No. 1376 of 2021.

The learned Spl. PP for the State has opposed the prayer for bail. It is submitted that since the instant appellant has also arrived at the scene with the co-accused persons, his active participation cannot be ruled out.

In my opinion, a case for grant of regular bail is made out.



The impugned order dated 09.06.2021, passed in connection with SC/ST Case No. 171 of 2019, arising out of Tarari P.S. Case No. 197 of 2019, requires interference by this Court, which is, accordingly set aside.

Considering the rival submissions, this appeal is allowed. The impugned order dated 09.06.2021, passed by learned Additional Sessions Judge-1st Bhojpur (Ara), in connection with SC/ST Case No. 171 of 2019, arising out of Tarari P. S. Case No. 197 of 2019, 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-1st Bhojpur (Ara), in connection with SC/ST Case No. 171 of 2019, arising out of Tarari P.S. Case No. 197 of 2019, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail



bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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