

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3059 of 2021**

Arising Out of PS. Case No.-87 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

RAHUL KUMAR, Son of Lal Babu Das, Resident of Village - Bara Jagarnath, P.s.- Ahiyapur, Distt.- Muzaffarpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Parasmani, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

3 13-09-2021 Heard learned counsel for the appellant and learned Special P.P. for the State through video conferencing.

The instant appeal has been preferred against the order dated 9.4.2021, whereby the prayer for bail of the appellant in connection with a case registered under sections 302, 201 and 34 of the Indian Penal Code and section 3 of the SC and ST (Prevention of Atrocities) Act, was rejected.

As per the prosecution case, the son and nephew (bhagina) of the informant who had gone to attend a birthday party did not return and subsequently on search their dead bodies were recovered. It is further stated that about 3 months back the informant's son and nephew had stopped the motorcycle of one Pankaj Kumar and taken away his key. The said Pankaj had threatened to kill them.



It is submitted by learned counsel for the appellant that the appellant has been falsely implicated in the case. From perusal of the FIR itself it would transpire that there is no eye witness to the occurrence. Even as per the apprehension raised by the informant in the FIR, it is co-accused Pankaj who is the suspect. The appellant has no motive to commit the alleged crime. He has no criminal antecedent and is in custody since 11.2.2020.

The prayer for bail is opposed by learned Special P.P. appearing for the State who submits that material has transpired that all the accused persons including the appellant herein were involved in the killing of the son and nephew of the informant.

In reply it is submitted by learned counsel for the appellant that the material being relied on by the learned Spl. P.P. appearing for the State is the confessional statement of co-accused made before the police which is inadmissible.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case including the appellant having remained in custody since 11.2.2021 ie 7 months, the Court is inclined to allow the instant appeal. The appeal is allowed and the order impugned dated 9.4.2021 passed in Ahiyapur P.S. Case no. 87 of 2021 is set



aside.

The appellant is directed to be enlarged on bail in connection with Ahiyapur P.S. Case no. 87 of 2021 on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge III-cum-Special Judge, SC/ST Act, Muzaffarpur.

(Partha Sarthy, J)

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