

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 2178 of 2020**

Arising Out of PS. Case No.-65 Year-2016 Thana- BALIYA District- Begusarai

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Raushan Kumar @ Raushan Chaudhary, Male aged about 38 years, Son of
Ram Sagar Chaudhary, Resident of Village - and PO- Masudanpur, PS- Ballia,
District- Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Pushpendra Kumar Singh, Advocate
For the State : Ms. Usha Kumari No. 1, Special PP

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 27-09-2021

Heard Mr. Pushpendra Kumar Singh, learned counsel
for the appellant and Ms. Usha Kumari No. 1, learned Special
Public Prosecutor (hereinafter referred to as the ‘Special PP’) for
the State.

2. The present appeal is directed against the order dated
06.07.2020 passed by the learned Special Judge SC/ST (POA),
Begusarai in ABA No. 443 of 2020 by which prayer for
anticipatory bail of the appellant has been rejected.

3. The appellant apprehends arrest in connection with
Ballia PS Case No. 65 of 2016 dated 21.03.2016, instituted under
Sections 147, 148, 149, 341, 342, 302 of the Indian Penal Code,



1860; 27 of the Arms Act, 1959 and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. The allegation against the appellant, who is not named in the FIR, is of being party to the death of two brothers-in-law of the informant who were shot dead.

5. Learned counsel for the appellant submitted that as per the FIR, the specific allegation is against 13 named persons and the appellant's name does not figure in the said list. It was submitted that only during the course of investigation some witnesses have raised suspicion about the involvement of the appellant because he was also present at the spot. Learned counsel submitted that as per the allegation, co-accused Surendra Choudhary, Himmat Choudhary, Jitendra Choudhary and Chhote Lal Choudhary had fired on the deceased leading to their death and Himmat Choudhary has been granted anticipatory bail, as noticed by a co-ordinate Bench while granting bail to co-accused Lalan Kumar Choudhary @ Lalan Choudhary by order dated 06.12.2017 passed in Cr. Appeal (SJ) No. 3175 of 2017. It was further submitted that another co-accused Bijal Choudhary @ Bijo Choudhary @ Bijay Chaudhary has also been granted anticipatory bail by order dated 11.05.2018 passed by a co-ordinate Bench in Cr. Appeal (SJ) No. 1135 of 2018 and further, co-accused Ravi



Kumar has also been granted anticipatory bail by order dated 14.02.2020 by a co-ordinate Bench in Cr. Appeal (SJ) No. 4618 of 2019. Learned counsel submitted that the appellant besides being innocent has also not got any other criminal antecedent.

6. Learned Special PP submitted that the appellant has also been found to be present at the spot. However, it was not controverted that in the FIR he has not been named and it has not been alleged that any other unknown persons were present at the time of the incident.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the appellant not being named in the FIR and there being no other unknown accused as also him not having any other criminal antecedent and named co-accused having been granted anticipatory bail by co-ordinate Benches, the Court is inclined to allow the prayer for pre-arrest bail of the appellant.

8. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the appellant be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST (POA), Begusarai in Ballia PS Case No. 65 of 2016 subject to the



conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the appellant, (ii) that the appellant and the bailors shall execute bond and give undertaking with regard to good behaviour of the appellant and (iii) that he shall co-operate with the Court and police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the appellant, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellant.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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