

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3464 of 2021**

Arising Out of PS. Case No.-105 Year-2021 Thana- MOHIUDDIN NAGAR District-
Samastipur

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Vikky Kumar Mahto @ Vikky Ray, aged about 26 years, male, Son of
Upendra Mahto @ Upendra Ray Resident of Village - Shivaisinghpur, P.S.-
Mohiuddinnagar, District - Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Raghwendra Pratap Singh, Adv.

For the Respondent/s : Ms. Usha Kumari 1, Spl PP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 23-09-2021 In view of the sudden surge 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.

This Court would expect that appellant's counsel would
honour his undertaking in the instant proceedings regarding
supply of the requisite Court fee etc., within two weeks from the
date he is called upon to do so by the office.

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 29.06.2021, passed by learned Additional District and Sessions Judge-1-cum-Special Judge SC/ST Act, Samastipur, in a case registered under Sections 394 and 397 of the Indian Penal Code and Sections 3(2)(va) of the SC/ST Act in connection with Mohiuddin Nagar PS Case No. 105 of 2021.

There is an allegation that the informant's son was indiscriminately fired upon by three unknown persons on a motorcycle. They have taken away his bag, in which, there was a lap top and Rupees one lakh.

The learned counsel for the appellant submits that the instant appellant is resident of the same village where the occurrence has taken place still he has not been named by the informant nor any witness has come in investigation to state the appellant's participation. He submits that reference to paragraph Nos. 23, 26 and 27 of the case diary in the order under appeal is to the extent that it supports the allegation, which are against the unknown persons. Therefore, even in those paragraphs it cannot be said that anyone has stated the name of the appellant. He submits that his implication is based on a fact that earlier he was accused in one case being Desri PS Case no. 27 of 2018, in which, he is already on bail. In the instant case,



he is stated to be in custody since 25.05.2021. Reference to the Call Detail Record (CDR) in the order under appeal is of no relevance as it is bound to find the appellant's location in the vicinity since he is the resident of the same village.

The learned Spl. PP for the State has opposed the prayer for bail.

In my opinion, a case for grant of regular bail is made out. The impugned order dated 29.06.2021 passed in Mohiuddin Nagar PS Case No. 105 of 2021, requires interference by this Court, which is, accordingly set aside.

Considering the rival submissions, this appeal is allowed. The impugned order dated 29.06.2021 passed by Additional District and Sessions Judge-1-cum-Special Judge SC/ST Act, Samastipur, in a case arising out of Mohiuddin Nagar PS Case No. 105 of 2021 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 District and Sessions Judge-1-cum- Special Judge SC/ST Act, Samastipur, in connection with Mohiuddin Nagar PS Case No. 105 of 2021, 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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