

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3463 of 2021**

Arising Out of PS. Case No.-45 Year-2020 Thana- KHARHAGPUR District- Munger

Jitendra Kumar @ Jittu Rajak S/O Wakil Rajak R/O Village-Gaura, P.S-
Shampur (Haveli Kharagpur), District-Munger.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Raj Kumar Choudhary, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 21-10-2021 Heard learned counsel for the appellant and Mr. Binay
Krishna, learned Special Public Prosecutor for the State.

Appellant, in the present appeal, is seeking setting aside the order dated 04.06.2021 passed by learned Special Judge (SC/ST Act)-cum-A.D.J.-I, Munger in connection with Sampur (Haweli Kharagpur) P.S. Case No. 45/2020 registered for the offence under Section 302, 201/34 of the Indian Penal Code and 3(2)(r) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He is in custody since 07.05.2021. He has one criminal antecedent as stated in paragraph '3' of the application being Kharagpur P.S. Case No. 123/2019 under Section 341, 323, 307/34 of the Indian Penal Code. It is stated that this case has its genesis in the land dispute which is going on between the appellant and the informant.



As per the prosecution story, the eight years grand-son (daughter's son of the informant) was living with the informant in his village and on the fateful day while playing he had gone to the eastern side but did not return. On the next day, in course of search, the dead body of the boy was found in the pool of blood near a bush. The informant claimed that due to the old enmity between the appellant and him the appellant had killed his grand-son and threw his dead body in the bush.

The informant while lodging the First Information Report claimed that this appellant along with others had killed his grand-son. He named this appellant as accused no. 1.

Learned counsel for the appellant submits that the appellant has been made accused in this case on mere suspicion because of the old enmity. It is his further submission that the co-accused similarly situated namely Okil Rajak @ Wakil Rajak, Gorelal Singh @ Gorelal and Niranjana Jha have been granted bail by learned coordinate Benches of this Court in Cr. Appeal (SJ) No. 1717/2020, Cr. Appeal (SJ) No. 2151/2020 and Cr. Appeal (SJ) No. 172/2021 respectively.

On the other hand, Mr. Binay Krishna, learned Special P.P. for the State has opposed the prayer for bail of the appellant. It is his submission that while considering the plea of parity, this



Court may first look into the specific role assigned to the appellant in this case and the kind of materials which have come against him.

Learned Special P.P. has referred paragraph 10, 12 and 124 of the case diary. It is his submission that there are witnesses who have claimed that they had seen this appellant along with other co-accused having lathi in their hand and they had gone towards the orchard/bush near which the dead body has been found. In paragraph 124 of the case diary, it is specifically stated by another witness that this appellant had threatened the informant's family on account of a land dispute that the informant's family will have to face dire consequences. He has further narrated how the alleged occurrence had been given effect to and this appellant is said to have been the master-mind behind the occurrence as he had hired the co-accused Gorelal Singh for killing the grand-son of the informant.

Learned Special P.P. submits that in such circumstance where there are materials indicating the involvement of the appellant in the alleged occurrence and he is being the master-mind of the same, there is apprehension that if released on bail the trial would not be concluded in near future and the prosecution witnesses are also likely to be threatened.



Considering the seriousness of the allegations wherein the grand-son of the informant has been killed, there being specific allegation against this appellant that he had threatened on account of the land dispute and there is an earlier case arising out of the same land dispute against the appellant and further that the witnesses in the case diary are stating about the presence of the appellant with the co-accused near the place of occurrence, in the opinion of this Court, the principle of parity cannot be applied in the case of this appellant.

The prayer for interference with the impugned order is refused.

This application is dismissed. Let the trial be expedited.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

