

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.111 of 2021**

Arising Out of PS. Case No.-104 Year-2020 Thana- DULHIN BAZAR District- Patna

1. Prem Vishwakarma @ Premnath Vishwakarma Son Of Late Satya Narayan Vishwakarma Resident of Village - Chhotiki Kharwan, P.S.- dulhin Bazar, Distt.- Patna.
2. Sunil Vishwakarma Son of Prem Vishwakarma @ Premnath Vishwakarma. Resident of Village - Chhotiki Kharwan, P.S.- Dulhin Bazar, Distt.- Patna.
3. Santosh Kumar Son of Prem Vishwakarma @ Premnath Vishwakarma. Resident of Village - Chhotiki Kharwan, P.S.- Dulhin Bazar, Distt.- Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amrendra Kumar, Advocate
For the Respondent/s : Ms.Usha Kumari, Spl.PP

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

5 06-07-2021 Heard learned counsel for the appellants and learned
A.P.P. for the State.

Appellants, in the present case, are seeking setting aside the order dated 17.09.2020 passed in Special Case No. 262/2020 by the learned Special Judge, ST/ST, Patna in connection with Dulhin Bazar P.S. Case No. 104/2020 for the offence under Sections 307, 302/34, 120(B) of the Indian Penal Code and Section 27 of the Arms Act and Section 3(I)(r)(s)/3(2) (va) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution story, while the informant had



gone to market for purchasing boring pipe and was returning home suddenly three persons riding on a motorcycle, two persons fired indiscriminately upon the informant, the informant ran away towards the house of his Mausa namely Chitranjan Sharma and when he turned back he saw one unknown person sustained injury on his neck and chest due to said firing and later on in course of treatment he died in PMCH, Patna.

Learned counsel for the appellants submits that appellants have been falsely implicated in this case on mere suspicion. Learned counsel submits that appellant no. 1 is the father of appellant no. 2 & 3, no incriminating article has been recovered from the house of the appellants and they are in custody since 12.05.2020.

Learned APP for the State is present and has opposed the prayer for regular bail of the appellants.

Having regard to the facts and circumstances of the case wherein this court has noticed that there are general and omnibus allegations against these appellants, they are named among the 15 accused persons alleging that they are involved in commission of crime and crime of murder with the help of unknown persons, so far as present case is concerned, the informant alleges that three persons were firing on the house of



his Mausaa Chitranjan Sharma but the learned Special P.P. for the State says that in the case diary there is no identification of these appellants as the persons involved in the said firing, the appellant no. 1 and 2 have got criminal antecedent of two and one case respectively in which they are said to be on bail, considering the kind of general and omnibus allegations and that they have remained in jail for over one year, investigation against them is complete but the trial is not likely to be concluded in near future, this Court sets aside the impugned order and directs release of the appellants above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST, Patna, in connection with Dulhin Bazar P.S. Case No. 104/2020 corresponding to Special Case No. 262/2020, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly



make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage it is found that the appellants have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(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'.

