

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.99 of 2021**

Arising Out of PS. Case No.-431 Year-2019 Thana- ATRI District- Gaya

JAMAL KHAN Son of Late Rahman Khan Resident of Village - Dihuri, P.S.-
Atri in the distt. of Gaya.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Sunil Kumar, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

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

6 07-07-2021 Learned counsel for the appellant undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellant and Mr. Sadanand Paswan, learned Spl. P.P. for the State.

The appellant in the present case is seeking setting aside of the order dated 23.09.2020 passed by learned Exclusive Special Judge SC/ST, Gaya in connection with Atri P.S. Case No. 431 of 2019 registered for the offences punishable under Section 302, 120(B), 201/34 of the Indian Penal Code and Section 3(i)(r)(s) (u) of SC/ST (Prevention of Atrocities) Act whereby and whereunder the prayer for bail of the appellant was rejected.

Learned counsel for the appellant submits that as per the prosecution story, on 27.9.2019 the son of the informant quarreled with the appellant and other co-accused persons and there was



exchange of hot words and abusive language. It is also alleged that the accused persons assaulted the deceased son of the informant and when her mother came to rescue, they threatened to kill her son. On the next day the son of the informant left his home and went missing and on 6.10.2019 the informant got information that the dead body of his son was found in the field of one Ram Avatar Mistry.

Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case on mere suspicion. It is submitted that there is no specific allegation against the appellant. The Appellant is in custody since 23.9.2020.

Learned counsel for the State has opposed the prayer for bail of the appellant.

Having regard to the facts and circumstances of the case wherein this Court has noticed from the submissions advanced by learned counsel for the appellant and Mr. Sadanand Paswan, learned Spl.P.P. for the State that there is no eye witness to the alleged occurrence, the name of the appellant has transpired in the present case as one who had been involved in the quarrel with the deceased son of the informant on the previous evening with the co-accused persons who had threatened the son of the informant to kill him, on record there is statement of one Rohit Kumar @ Saukheen Manjhi under Section 164 Cr.P.C. who has come as a witness to say that when he was involved in fishing at about 9-10 p.m. he along with



Lalan Manjhi, Ajay Manjhi, Jogendra Manjhi and Geda Manjhi had seen four persons carrying the dead body, this witness has named Jakir Khan, Durmindra Mukhiya, Kedar Manjhi and Buchu Manjhi, this appellant is not named in his statement, the submission of learned counsel for the appellant is that similarly situated accused namely Farukh Khan, Laldeep Manjhi @ Buchu, Kabir Khan and Jakir Khan have been granted bail by learned coordinate Benches of this Court, the appellant in the present case has one case on his head which is said to have arisen on account of a land dispute, learned counsel for the appellant states that the appellant is on bail in that case, in the present case the appellant is in custody since 23.9.2020, investigation against him is complete but the trial is not likely to be taken up in near future, in these circumstances, this Court sets aside the impugned order and directs release of the appellant on bail above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Special Judge, (Scheduled Caste/ Scheduled Tribe) Gaya in connection with Atri P.S. Case No. 431 of 2019, subject to the conditions 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 is suspected, and

(c) that such persons shall not directly or indirectly make and 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 appellant and in case at any stage it is found that the appellant have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. 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.

Thus the application stands allowed.

(Rajeev Ranjan Prasad, J)

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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'.

