

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.319 of 2021**

Arising Out of PS. Case No.-244 Year-2020 Thana- UDWANTNAGAR District- Bhojpur

LAXMIKANT OJHA, Son of Dudheshwar Ojha Resident of Village- Aroura,
P.S.- Udwanthnagar, Distt- Bhojpur.

... .. Appellant

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Anil Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. PP
For the Informant	:	Mr. Vivek Kumar Singh, Advocate

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

2 09-03-2021 Learned counsel for the appellant undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellant and learned Spl. P.P. for the State.

The appellant in the present case is seeking to set aside the order dated 25.08.2020 passed by learned Additional Sessions Judge-1, Bhojpur, Ara in connection with Bhojpur SC/ST P.S. Case No. 173 of 2020 arising out of Udwanthnagar P.S. Case No. 244 of 2020 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Sections 3(1) (r)/3 (2) (r) of SC/ST Act.

Learned counsel for the appellant submits that when



the informant and her family members including her husband were planting paddy in her filed, F.I.R. named accused persons came there and on instigation, co-accused Kamlesh Ojha started firing. The informant's husband sustained bullet injury and succumbed to his injuries during the course of treatment.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. Learned counsel submits that there is no allegation of any overt act against this appellant. It is further submitted that the similarly situated co-accused have been granted bail by learned coordinate Benches of this Court. It is submitted that the appellant has got no criminal antecedent.

Learned Spl. P.P. for the State is present and has opposed the prayer for regular bail of the appellant.

Having regard to the facts and circumstances of the case, wherein it is the submission of the learned counsel for the appellant that there is no allegation of commission of overt act against the appellant and in the F.I.R. the specific allegation has come against the co-accused Kamlesh Ojha and the co-accused similarly situated against whom there is no specific allegation have been granted privilege of bail by learned coordinate Benches of this Court in Cr. Appl. (SJ) No. 1957 of 2020 and



Cr. Appl. (SJ) No. 2162 of 2020, the appellant has otherwise no criminal antecedent, this Court sets aside the impugned order.

Let the appellant be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1, Bhojpur, Ara in connection with Bhojpur SC/ST P.S. Case No. 173 of 2020 arising out of Udwanthnagar P.S. Case No. 244 of 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 antecedents of the appellant and in case at any stage it is found that the appellant has concealed his criminal



antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bond in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The appeal stands disposed of accordingly.

(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'.

