

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3970 of 2021**

Arising Out of PS. Case No.-416 Year-2021 Thana- KATIHAR NAGAR District- Katihar

1. Kumkum Devi @ Kumkum Srivastava, W/o Krishna Shrivastava, R/o Santoshi Colony, P.S. & District Katihar.
2. Manisha Srivastava, D/o Krishna Shrivastava, R/o Santoshi Colony, P.S. & District Katihar.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bhola Prasad, Advocate

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

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

3 30-11-2021 Heard learned counsel for the appellants and learned
Special P.P. for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the SC/ST Act') against the refusal of prayer of bail vide order dated 08.09.2021, passed by learned 1st Additional Sessions Judge-cum-Special Judge, Katihar in connection with Katihar Town P.S. Case No.416 of 2021, registered under Sections 302, 120(B), 34 of the Indian Penal Code, Section 3(2)(v) of the SC/ST Act and Section 27 of the Arms Act.

The prosecution case, in brief, is that on 29.07.2021 at



about 21.15, the informant got information that something happened on Santosh Chowk. The informant went there along with his brothers and friends and saw that his elder brother, Shiv Raj Paswan was coming towards his house in injured condition. The informant saw three bullet injuries on left chest of the body of his elder brother, Shiv Raj Paswan. The informant brought his brother to K.M.C.H., Katihar. The brother of the informant disclosed the names of the persons involved in the alleged offence.

Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. No specific overt act is alleged against the appellants. It is submitted that according to the FIR, the allegation against the appellants is that the appellants are the conspirator and there is no allegation of firing against the appellants on the deceased. It is lastly submitted that the appellants are in custody since 30.07.2021.

Learned Special P.P. for the State and learned counsel appearing on behalf of the informant opposed the prayer for bail of the appellants and submitted that the appellants are also involved in the present occurrence and they have called the brother of the informant and thereafter the brother of the



informant was murdered. Learned counsel for the informant submits that there is ample evidence against the appellants, which is also mentioned in the order impugned.

From perusal of the case diary produced by learned counsel for the informant, it appears that only allegation against the appellants is that they are the conspirator and there is no specific overt act alleged against the appellants.

Having considered the facts aforesaid, let appellants, above named, be released on bail on furnishing bail bonds of Rs.25,000/- (rupees twenty five thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Katihar in connection with Katihar Town P.S. Case No.416 of 2021.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J.)

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