

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4005 of 2021

Arising Out of PS. Case No.-541 Year-2020 Thana- KHAJANCHI HAT District- Purnia

MD SALIM ALIAS PACHPAN ALIAS SALIM SON OF USMAN GANI
RESIDENT OF VILLAGE- RAMPUR KOTHI, P.S- K. NAGAR, DIST-
PURNEA

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ram Prawesh Kumar
For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 15-12-2021 Heard learned counsel for the appellant and learned Special
Public Prosecutor for the State.

This is an appeal under section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 09.08.2021, passed by learned Special Judge, SC/ST (POA) Act, Purnea, in connection with Khazanchi Haat (K.Haat) P.S. Case No.541 of 2020, registered under sections 324, 302, 120(B), 34 of the IPC, section 27 of the Arms Act and section 3(2)(V) of SC and ST (POA) Act, 1989.

The crux of the prosecution case is that husband of the informant has been killed by three unknown miscreants at her



house, who came there with covered faces. It is alleged that he has been killed because of political tussle. He was threatened to be murdered by the named accused persons, who are the members of a political party.

It is submitted by learned counsel for the appellant that the appellant is innocent and has not committed any offence. He has been falsely implicated in this case due to local politics. Appellant is not named in the FIR but his name transpired in the case on the basis of confessional statement of the co-accused. The appellant was not put on test identification parade though the occurrence took place in the broad day light. No incriminating article has been recovered from the conscious physical possession of the appellant. It is further submitted that no case under the SC/ST Act is made out against the appellant as the accusation does not constitute any offence under SC/ST Act is made out inasmuch as there is no allegation that the alleged occurrence has taken place in public view. In this case, the occurrence took place in the house of the deceased and there is no allegation of abuse attributed against the appellant. Therefore, no case under the SC/ST Act is made out against the appellant. Several similarly situated co-accused have been granted bail by a co-ordinate Bench of this Court vide Cr. Appeal (SJ) No.1811 of 2021 passed on



02.07.2021, Cr. Appeal (SJ) No.1931 of 2021 & Cr. Appeal (SJ) No.1995 of 2021 passed on 24.07.2021. The appellant has been languishing in custody since 08.10.2020 and has no criminal antecedent, which is also mentioned in para-3 of the memo of appeal.

Learned Spl. P.P. for the State has opposed the prayer for bail.

Since, no allegation of abusing the deceased or his family is attributed upon the appellant and that the occurrence took place in the house of the deceased, there is no necessity of issuing notice to the informant, which is otherwise required in a case registered under the SC/ST Act.

In the facts and circumstance of the case, the above named appellant is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the Special Judge, SC/ST (POA) Act, Purnea, in connection with Khazanchi Haat (K.Haat) P.S. Case No.541 of 2020, with the following conditions:-

(1) One of the bailor of will be own close relative of the appellant, who will give on affidavit genealogy as to how he is related to the appellant. The bailor will also undertake to inform



the court if there is any change in the address of the appellant.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the appellant is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) Appellant shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by learned court concerned.

(4) The appellant shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(5) The appellant shall appear before the Police Station of his local area in the first week of each month till the disposal of the present case.

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

(Anjani Kumar Sharan, J)

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