

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 496 of 2021

Arising Out of PS. Case No.-133 Year-2020 Thana- NAWADA District- Nawada

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Binay Kumar. Male, aged about 38 years, Son of Naval Kishor Singh,
Resident of Mohalla- New Area Mahabir Nagar Purani Jail Road, PS- Nagar
(Town), District- Nawada.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

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

For the State : Mr. Binay Krishna, Special PP

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 26-08-2021

The matter has been heard *via* video conferencing.

2. Heard Mr. Ratneshwar Prasad, learned counsel for the
appellant and Mr. Binay Krishna, learned Special Public
Prosecutor (hereinafter referred to as the ‘Special PP’) for the
State.

3. The present appeal is directed against the order dated
02.11.2020 passed by the learned Additional Sessions Judge 1st-
cum-Special Judge the Scheduled Castes and the Scheduled Tribes
(Prevention of Atrocities) Act, 1989, Nawada in ABP No. 1239 of



2020, by which prayer for anticipatory bail of the appellant has been rejected.

4. The appellant apprehends arrest in connection with Nawada Town PS Case No. 133 of 2020 / Special Case (SC/ST) No. 22 of 2020 dated 12.03.2020, instituted under Sections 419, 420, 323, 427, 504, 304, 120(B) of the Indian Penal Code and 3(2) v of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. As per the FIR, the informant Sudhir Kumar has alleged that the wife of his brother was pregnant on 07.02.2020 at 4:00 PM, and she was admitted to Sadar Hospital, Nawada from where a lady doctor had referred her to Magadh Medical College, Gaya and when they were coming out of the gate of the Sadar Hospital, Nawada, co-accused Ranju Devi and Panchali Devi, Asha workers, had said that unnecessarily the case has been referred to Magadh Medical College, Gaya and that the patient would be properly attended by a qualified doctor and took them to Maa Ahilya Janch Ghar where she was advised to undergo cesarean operation for delivery and despite the informant's side not being in favour, pressure was exerted and deposit of Rs. 50,000/- was also taken, and a child was born, but the condition of mother deteriorated and she died at 10:00 PM. It was further



alleged that on inquiry it had come to light that the said Janch Ghar had no qualified doctor, and the aforesaid co-accused knowing that the informant belonged to Harijan community, had deliberately got the operation conducted by a quack and in the process, his sister-in-law had died.

6. Learned counsel for the appellant submitted that the land on which the said Maa Ahilya Janch Ghar is built belongs to the wife of the appellant and except for this, the appellant or his wife are not even remotely connected to the said Janch Ghar. It was submitted that he was not even named in the FIR, but later the police has implicated him just because he was the husband of the owner of the land on which the Janch Ghar is constructed. Learned counsel submitted that the two named co-accused Ranju Devi and Panchali Devi have been granted anticipatory bail by a co-ordinate Bench by order dated 09.04.2021 passed in Cr. Appeal (SJ) No. 1871 of 2020. It was submitted that the appellant has no other criminal antecedent.

7. Learned APP submitted that the wife of the brother of the informant had died in Janch Ghar built on the land belonging to the wife of the appellant. However, it was not controverted that there is no allegation with regard to the appellant running the said Janch Ghar or having any role in the same.



8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the fact that the only connection the appellant has to the incident in question is that he is the husband of the person in who is the owner of the land on which the Janch Ghar is built and no allegation being made against him in the FIR, the Court finds that case for grant of pre-arrest bail has been made out.

9. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the appellant be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge 1st-cum- Special Judge the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, Nawada in Nawada Town PS Case No. 133 of 2020 / Special Case (SC/ST) No. 22 of 2020 subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the bailors shall be a close relative of the appellant and (ii) that the appellant shall co-operate with the Court and police/prosecution. Failure to co-operate shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the appellant, to the



notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellant.

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

(Ahsanuddin Amanullah, J.)

P. Kumar

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