

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.713 of 2021**

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

AJAY OJHA @ AJAY KUMAR OJHA @ ABHISEKH OJHA Son of
Sudeshwar Ojha Resident of Village- Araura, P.S.- Udwantnagar, District-
Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

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

For the Respondent/s : Spl. PP

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

2 22-03-2021 Heard learned counsel for the appellant, learned Spl.
PP for the State and learned counsel for the informant.

The instant appeal has been preferred against the order dated 25.8.2020 passed by the learned 1st Additional Sessions Judge, Bhojpur at Ara in SC and ST case no. 173 of 2020 arising out of Udwantnagar P.S. Case no. 244 of 2020 registered under sections 302 and 34 of the Indian Penal Code, section 27 of the Arms Act and sections 3(1)(r) and 3(2)(r) of the SC and ST (POA) Act, whereby the prayer for regular bail of the appellant was rejected.

As per allegation in the FIR, the accused persons including the appellant herein variously armed surrounded the husband of the informant and it is further stated that on the



orders of Rajnish Ojha, Kamlesh Ojha fired from his rifle killing him.

It is submitted by learned counsel for the appellant that the allegations as levelled in the FIR are false and concocted. From perusal of the FIR itself it would transpire that Rajnish Ojha is stated to be the order giver while the sole assailant is Kamlesh Ojha. No overt act has been alleged against the appellant who is in custody since 12.7.2020 and has no criminal antecedent. His case stands on a similar footing to that of Birendra Ojha and Ors who have been enlarged on bail by order dated 18.1.2021 passed in Cr. Appeal (SJ) no. 1957 of 2020.

The appeal is opposed by learned Spl. PP appearing for the State and learned counsel for the informant. It is submitted by learned counsel for the informant that not only the appellant is named in the FIR but has actively participated in the occurrence. The appeal may be rejected.

Having heard learned counsel for the parties and taking into consideration that no overt act has been alleged against this appellant together with grant of bail to the other co-accused as stated above, the appeal is allowed and the order dated 25.8.2020 passed by the learned 1st Additional Sessions Judge,



Bhojpur at Ara in SC and ST case no. 173 of 2020 arising out of Udwanthnagar P.S. Case no. 244 of 2020 is hereby set aside.

The appellant is directed to be enlarged on bail in connection with Udwanthnagar P.S. Case no. 244 of 2020 on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Bhojpur at Ara.

(Partha Sarthy, J)

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