

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.175 of 2022**

Arising Out of PS. Case No.-174 Year-2021 Thana- MAHARAJGANJ District- Siwan

Rockey Singh @ Dipanshu Kumar Son Of Vijendra Singh @ Bijendra Singh
R/O Village- Rukundipur, P.S.- Daraunda, District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Priyanshu Raj Arjun Sah R/O Village-Nakhash Chawk, Purani Bazar, P.S.-
Maharajganj, District-Siwan

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Kumar Tiwary, Advocate.

For the Respondent/s : Mr. Usha Kumari 1, APP.

For the Respondent No.2: Mr. Arvind Kumar Singh, Adovacate.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 29-09-2022 Learned counsel for the appellant is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Ajay Kumar Tiwary, learned counsel appearing on behalf of the appellant, Mr. Arvind Kumar Singh, learned counsel for informant/respondent no.2 and learned Spl. PP for the State.

The present appeal under Section 14(A) (2) of the Schedule Caste and the Schedule Tribe (Prevention of Atrocities) Act, 1989, (hereinafter referred to as 'SC/ST Act') has been preferred against the order dated 04.12.2021, passed by learned Additional Sessions Judge-1st-cum Special Judge, Siwan, in connection with Speical Case No.79 of 2021, arising



out of Maharajganj P.S. Case No.174 of 2021, registered for the offences punishable under Sections 302, 120(B)/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(1)(r)(s) of the SC/ST Act, whereby the prayer for grant of regular bail of the appellant has been rejected.

As per prosecution case, it is alleged that on 04.07.2021, at about 16:00 hours, while the elder brother of the informant was going to his house, in the meantime three persons came on a motorcycle and started abusing by taking his caste name and thereafter, co-accused Golu Singh fired upon his brother thrice, which resulted into his death. It is also alleged that two persons were sitting on the motorcycle including the petitioner, who said that co-accused Golu Singh has done good job.

Learned counsel for the appellant submits that from the FIR, it would be evident that the specific allegation of firing has been attributed against co-accused Golu Singh and so far as the appellant is concerned, no overt act has been attributed against him, save and except of abusing the deceased by taking his caste name. He further submitted that the informant claiming himself to be an eyewitness of the alleged incidence, has categorically narrated the entire incidence, but he did not



alleged anything against the appellant. He also submitted that appellant is in custody since 14.08.2021 and now, the investigation of the crime is already complete and the charge-sheet has been submitted and as such keeping the appellant behind the bar would serve no further purpose. He last submitted that though the appellant is also named in two other cases, however, he is on bail in both cases.

On the other hand, leaned counsel appearing on behalf of informant/respondent no.2 has vehemently opposed the present appeal and submitted that all the three persons in furtherance of common intention has caused the death of the deceased and the involvement of the appellant is prima facie evident from the FIR that the appellant was also present there and instigated to fire. He also submitted that the appellant is also having two criminal antecedent.

Learned Special Public Prosecutor appearing on behalf of the State also opposed the present appeal.

Regard being had to the submissions made on behalf of the parties and considering the fact that specific allegation of firing has been attribute against co-accused person and so far as the appellant is concerned, save and except the allegation of abusing, there is no allegation of any overt act, apart from the



period of incarceration, let the appellant, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1st-cum Special Judge, Siwan in connection with Special Case No.79 of 2021, arising out of Maharajganj P.S. Case No.174 of 2021, subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent 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 immediate step for cancelling the bail



bond of the appellant. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

Accordingly the impugned order dated 04.12.2021, is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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