

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.315 of 2022**

Arising Out of PS. Case No.-432 Year-2021 Thana- UDWANTNAGAR District- Bhojpur

Niranjan Kumar, Son of Sobhnath Yadav, R/O Village- Brkagaon, P.S.-
Udwanthnagar (Gajrajganj), District- Bhojpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajani Ranjan Pd. Singh, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, Spl. P.P.
For the Informant	:	Mr. Ram Niwas Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 07-07-2022 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 Mr. Rajani Ranjan Prasad Singh, learned counsel appearing on behalf of the appellant, Mr. Ram Niwas Prasad, learned counsel for informant and learned Spl. PP for the State.

The present appeal under Section 14(A) (2) of the Scheduled Castes/Scheduled Tribes, Prevention of Atrocities Act, (hereinafter referred to as 'SC/ST Act') has been preferred against the order dated 08.12.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara in connection with SC/ST Case No. 05 of 2022, arising out of Udwanthnagar (Gajrajganj) P.S. case no. 432 of



2021 registered for the offences punishable under Sections 341, 307, 302/34 of the Indian Penal Code, Sections 3(i)(r)(s)(2)(v) of the SC/ST Act and Section 27 of the Arms Act whereby the prayer for grant of regular bail of the appellant has been rejected.

As per prosecution case, it is alleged that on 05.10.2021 all the accused persons surrounded the informant, namely, Anil Chaudhary, and others and thereafter it is alleged that one Daroga Yadav @ Arjun Yadav and this appellant caught hold Diwakar Prakash @ Sonu Kumar and on the dictate of co-accused Daroga Yadav, one Dina Nath fired upon Diwakar Prakash, due to which he died. It is also alleged that co-accused Dinanath also fired upon the informant due to which he sustained bullet injury in his chest.

Learned counsel for the appellant submits that from the tenor of the F.I.R it is evident that there is specific allegation of firing is against co-accused Dinanath, who fired upon the deceased as well as on the informant, which resulted into death of Diwakar Prakash. It is next submitted that except the allegation that the appellant caught hold the deceased, there is no specific allegation of any other overt act. It is also submitted that there is admitted land dispute between the parties and moreover this appellant is in custody since 07.10.2021 having



fair antecedent. It is also submitted that the investigation of the crime is already concluded and charge-sheet has been submitted, however, without taking into consideration the materials available on record, the learned court below passed the impugned order rejecting the bail application of the appellant.

On the other hand, leaned counsel appearing on behalf of informant vehemently opposes the bail application and submits that the appellant has played active role and he caught hold the deceased thereafter co-accused Dinanath fired upon him and therefore he should not be released on bail.

Learned Special Public Prosecutor appearing on behalf of the State also opposes the prayer for bail and submits that the impugned order has been passed on the basis of the materials available on record.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that specific allegation of firing is made against co-accused Dinanath @ Dinanath Yadav and so far this appellant is concerned there is allegation that he caught hold the deceased and moreover this appellant is in custody since 07.10.2021 having fair antecedent, let the appellant, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of



learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur at Ara in connection with SC/ST Case No. 05 of 2022, arising out of Udwanthnagar (Gajrajganj) P.S. case no. 432 of 2021, subject to the condition that one of the bailors will be the close relative 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.

In the aforesaid circumstance, the impugned order dated 08.12.2021 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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