

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2428 of 2022

Arising Out of PS. Case No.-284 Year-2021 Thana- RAJAOLI District- Nawada

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Sintu Kumar Son Of Krishnadeo Singh R/O Gariba, P.S.- Rajauli, District- Nawada

... .. Appellant/s

Versus

1. The State of Bihar
2. Babita Devi Wife Of Late Ram Jatan Ram R/O Village- Gariba, P.S.- Rajauli, District- Nawada

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Amresh Kumar Sinha, Advocate.
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 22-09-2022 Learned counsel for the Appellant is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Amresh Kumar Sinha, learned counsel for the Appellant as well as learned Special Public Prosecutor for the State.

This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 07.07.2022 passed by the learned Exclusive Special Court, Scheduled Caste & Scheduled Tribe (Prevention of Atrocities),



Act, Nawada in connection with Rajauli P. S. Case No. 284 of 2021 registered for the offences punishable under Sections 302 and 120 ((B) of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v) of the SC/ST (Prevention of Atrocities) Act.

As per the prosecution case, it is alleged that on 11.06.2021 at about 08:30, while the respondent no. 2/informant was going with her husband Ram Jatan Ram to doctor's clinic for her treatment to Rajauli on a motorcycle, in the meantime, they saw that all the accused persons were sitting in a cave, on the instruction of the appellant co-accused Vikash Kumar and one unknown person fired upon them causing injury to the informant's husband, thereafter, they fled away. The injured person was taken to the hospital, where he succumbed to the injuries.

Learned counsel appearing on behalf of the appellant submitted that from the F.I.R., it is evident that the specific allegation of firing has been alleged against co-accused Vikash Kumar and one unknown person, so far the appellant is concerned, there is allegation of order giver and no overt act has been attributed against him. It is also submitted that considering this aspect of the matter, other accused persons, having similar



allegation has been allowed privilege of bail and their impugned orders have been set aside by the learned coordinate Bench of this Hon'ble Court. The copies of which have been annexed as annexure 2 to this application. It is next submitted that the present F.I.R. has been instituted on the backdrop of a dispute that while brother of the appellant was in jail, his wife eloped with the nephew of the deceased. It is last submitted that the appellant having fair antecedent, is in custody since 27.06.2022.

On the other hand, learned Special Public Prosecutor for the State opposes the bail application and submits that all the accused persons including the appellant in furtherance of common intention has committed the gruesome murder of the husband of the deceased and it is the appellant on whose dictate, the firing has taken place resulting into the death. It is next submitted that after investigation of the case, the accused persons including the appellant is continuously threatening the respondent no. 2 and her family members and as such, apprehension of untoward incidence is present there.

Regard being had to the submissions made on behalf of the parties and taking into account the nature of allegation and no overt act has been alleged against the appellant and save and except the order giver and other accused



persons having identical allegation have already been allowed the privilege of bail, let the appellant, above named, 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 Exclusive Special Court, Scheduled Caste & Scheduled Tribe (Prevention of Atrocities), Act, Nawada in connection with Rajauli P. S. Case No. 284 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 view of the aforesaid fact, the impugned order dated 07.07.2022 is hereby set aside and the present appeal is allowed.



Further, it is made clear that if the appellant would be found indulge in intimidating the witnesses and tampering with the evidences, the respondent no. 2 would be at liberty to file an application for cancellation of his bail before the court below itself.

(Harish Kumar, J)

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