

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3720 of 2021

Arising Out of PS. Case No.-11 Year-2020 Thana- MIRGANJ District- Gopalganj

SUNIL SINGH Son of Sri Rajbanshi Singh Mahuwari Baluwa, P.S.- Siwan,
District- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dilip Sharma S/o- Vishwanath Sharma Resident of Village- Rampur
Vishunpur, P.S.- Muffasil, Dist.- Siwan

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Shivam

For the Respondent/s : Mrs.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 24-03-2022 Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

Vide order dated 13.12.2021, notice was directed to be issued upon the respondent no.2 and as per office notes dated 04.03.2022, though notice has been duly received by the wife of the respondent no.2, which is a valid service of notice, but nobody appears on behalf of the respondent no.2.

Learned counsel for the appellant undertakes to remove the defects within four weeks of resumption of normal court proceedings. In the eventuality of non-removal of defects within stipulated period, office will place the matter before the Bench.

This is an appeal under section 14 (A) (2) of the Schedule



Caste and Schedule Tribe (Prevention of Atrocities) Amendment Act, 2015 against the refusal of prayer for bail vide order dated 23.07.2021, passed by learned Additional District and Sessions Judge-I -cum- Special Judge, (SC/ST) Act, Gopalganj, in connection with Mirganj P.S. Case No.11 of 2020, registered under sections 302, 120(B), 34 of the IPC, sections 3(2)(v) of the SC/ST (POA) Act and section 27 of the Arms Act.

Allegedly, the brother of the informant was shot by 2-3 unknown miscreants, due to which, he died at the spot.

It is submitted by learned counsel for the appellant that the appellant is innocent and has not committed any offence. No such occurrence, in the manner alleged, ever taken place. Appellant has been falsely implicated in the case. The appellant is not named in the FIR and the same is lodged against unknown persons. During investigation, on the confessional statement of the co-accused Jai Prakash Singh, the name of petitioner transpired in this case. The informant is not the eye-witness of the alleged occurrence. There is no allegation that the appellant has abused the informant or his brother, therefore, no offence under SC/ST Act is made out. The accusation does not constitute any offence under SC/ST Act is made out inasmuch as there is no allegation that the alleged occurrence has taken place



in public view. The similarly situated co-accused Jai Prakash Singh has already been enlarged on bail by this Court vide order dated 09.12.2021, passed in Cr. Appeal (SJ) No.3709 of 2021. The appellant is languishing in custody since 23.12.2020 and has 28 criminal antecedents, as mentioned in para-3 of the memo of appeal.

Learned Spl. PP for the State opposed the prayer for bail.

Considering the facts and circumstances of this case since similarly situated co-accused has been granted bail, the above named appellant is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-I -cum- Special Judge, (SC/ST) Act, Gopalganj, in connection with Mirganj P.S. Case No.11 of 2020, with the following conditions:-

(1) One of the bailors will be own close relative of the appellant who will give on affidavit genealogy as to how he is relative to appellant. The bailor will also undertake to inform the court if there is any change in the address of the appellant.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the appellant is made accused in any other case of similar nature after his release in the present



case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(3) The appellant shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by learned court concerned.

(4) The appellant shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(5) The appellant shall appear before the Police Station of his local area in the first week of each month till the disposal of the present case.

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

(Anjani Kumar Sharan, J)

pallavi/-

U		T	
---	--	---	--

