

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4024 of 2021

Arising Out of PS. Case No.-428 Year-2020 Thana- SUGAULI District- East Champaran

Rakesh Kushwaha S/O Satan Kushwaha R/O Village-Koraiya Murda Chapra,
P.S-Sugauli, District-East Champaran.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Sugandhi Devi wife of Harendra Manjhi Resident of village-Kobeya Bajar
Mushhar Toli, P.S.- Sugauli, District- East Champaran

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 01-12-2022 Let the defects, as pointed out by the office, be removed within four weeks of starting of Court proceeding in physical mode in normal course.

Heard learned counsel for the appellant, learned counsel for the informant and learned Spl.P.P. for the State.

This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by order dated 03.02.2021 in A.B.P. No.2053 of 2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, East Champaran at Motihari in connection with Sugauli P.S.Case No. 428 of 2020 registered under



Sections 147,149,341,323,307,302 of the Indian Penal Code subsequently added Sections 3(1)(r)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes Act and 27 of Arms Act.

The prosecution case, in short, is that the allegation of firing and commission of firearm injury and death is against co-accused Yadolal Kushwaha and Om Prakash Kushwaha.

Learned counsel for the appellant submits that the appellant has clean antecedent. He has falsely been implicated in the present case. Further submits that it appears from the FIR that no case is made out against the appellant under the SC/ST Act and with respect to the allegation of firing is attributed against co-accused Yadolal Kushwaha and Om Prakash Kushwaha and there is general and omnibus allegation against the appellant.

The learned Spl.P.P. for the State have vehemently opposed the prayer for anticipatory bail of the appellant and submits that there involvement of the appellant in the present case.

After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Schedule Castes and Scheduled Tribes Act is made out.

Hence, let the appellant, above named, in the event



of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.10,000 (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(1) Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(2) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that 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 step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be



delayed for purpose of or in the name of verification.

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

(Rajesh Kumar Verma, J)

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