

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1884 of 2023**

Arising Out of PS. Case No.-175 Year-2021 Thana- ALOULI District- Khagaria

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Sunil Sah Son Of O.P. Sah Village- Saharbanni, Ps- Allouli, Distt- Khagaria

... .. Appellant/s

Versus

1. The State of Bihar
2. Udha Devi Wife Of Ashok Paswan Resident Of Village- Saharbanni, Ps- Alloulik, Distt- Khagaria

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Rajesh Kumar, Advocate
For the Respondent/s	:	Mr. Usha Kumari 1, Spl. PP
For the Informant	:	Mr. Kumar Shah Karum, Advocate

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 13-07-2023 Heard learned counsel for the appellant, learned counsel for the informant and learned Spl. P.P. for the State.

2. 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 **anticipatory bail** *vide* order dated 27.02.2023 in A.B.P. No. 59 of 2022 passed by the learned 1st Additional Sessions Judge S.C./S.T. (POA) Act, Khagaria in connection with Alauli P.S. Case No. 175 of 2021 registered for the offences punishable under Sections 363, 34, 302 and 201 of the Indian Penal Code read with Section 27 of the Arms Act as well as Sections 3(2)(v) of the SC/ST Act.

3. Learned counsel for the appellant submits that the



appellant is a person with clean antecedent and the informant alleges that on 19.05.2021, her son had gone to attend a marriage in the village and did not return and became traceless, thus based on suspicion she alleges that the accused persons, including the appellant, might have kidnapped her son.

4. Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case, it is next submitted that the dead body of the son of the informant was located in the village after two days, it is further submitted that from perusal of the allegations as alleged in the FIR it would manifest that the entire allegation hinges around suspicion. Learned counsel further submits that the appellant is a 40 year old man and till date he is a person with clean antecedent and all of a sudden he has been implicated along with his minor son that they have committed the occurrence of killing the son of the informant when the informant is not an eyewitness to the occurrence, it is further submitted that appellant will not abscond rather will cooperate in the investigation and will present himself as and when required by the Investigating Officer of the case for eliciting the truth and for proving his innocence.

5. Learned Spl. P.P. for the State and the learned



counsel for the informant oppose the prayer for anticipatory bail of the appellant and the learned counsel for the informant submits that few days back, the mobile phone of the deceased was stolen and a suspicion was raised against the appellant and his sons for which a *panchayati* was held and in the *panchayati* the appellant had to compensate the deceased with money with regard to the stolen mobile as it was presumed that he along with his sons had stolen the mobile.

6. In view of the submissions made by the learned counsel for the appellant, the order dated 27.02.2023 in A.B.P. No. 59 of 2022 passed by the learned 1st Additional Sessions Judge S.C./S.T. (POA) Act, Khagaria in connection with Alauli P.S. Case No. 175 of 2021 is hereby set aside and the appellant above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Alauli P.S. Case No. 175 of 2021 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

7. However, it is made clear that in the event, if the



Investigating Officer files an application before the learned trial court bringing to its notice that the appellant despite giving assurance to this Court is not cooperating in the investigation or is not presenting himself when called for, the learned trial court shall be at liberty to forthwith cancel his bail bonds after recording reasons. It is further made clear that in the event if charge-sheet is submitted connecting the appellant with the offence then the present order shall lose its effect.

8. Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

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