

(2021) 03 PAT CK 0167

In the Patna High Court

Case No : Criminal Appeal (Sj) No. 441 Of 2021

Shailesh Manjhi And Anr

APPELLANT

Vs

State Of Bihar And Anr

RESPONDENT

Date of Decision : 18-03-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 14A(2)
Indian Penal Code, 1860 — Section 34, 201, 302

Citation : (2021) 03 PAT CK 0167

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Ajay Kr Singh, Binay Krishna

Final Decision : Allowed

Judgement

1. Heard learned counsel for appellants and learned Spl. PP for the State.
2. Learned counsel for the appellants is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so.
3. The appellants have preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for regular bail vide order dated 09.06.2020, passed by learned Additional District and Sessions Judge-VIII-cum special Judge SC/ST Act Patna, in Special Case No. 568 of 2019, arising out of Gaurichak PS Case No. 458 of 2019, registered under Sections 302 and 201/34 of the Indian Penal Code, Sections 3(2)(v) of the SC/ST Act.
4. The prosecution case is that, based on some family dispute, the husband of the informant's sister and his entire family members have killed her husband and thrown him in a well.
5. It is submitted by the learned counsel for the appellant that the motive which

has been assigned in the FIR, at best, is sufficient to cast suspicion against the husband of Malti Devi, viz, Upendra Manjhi. The appellants are the brothers of Upendra Manjhi and, by virtue of their relationship, they have falsely been implicated in this case. There is no eye witness to the alleged occurrence and based on suspicion, all the family members have been implicated in this case. Having no criminal antecedents, the appellants are stated to be in custody since 01.05.2020.

6. The learned Spl PP has opposed the prayer for bail. It is submitted that the victim has been murdered and his dead body has been recovered from a well. The appellants are named as an accused persons by the informant.

7. The learned Spl. PP has opposed the prayer for bail.

8. Considering the rival submissions, this appeal is allowed. The impugned order dated 09.06.2020, passed by learned Additional District and Sessions Judge-VIII-cum Special Judge SC/ST Act, Patna, in Special Case No. 568 of 2019, arising out of Gaurichak PS Case No. 458 of 2019, is set aside. Let the appellants, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-VIII-cum Special Judge SC/ST Act Patna, in Special Case No. 568 of 2019, arising out of Gaurichak PS Case No. 458 of 2019, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellants who will give an affidavit giving genealogy as to how he is related with the appellants. The bailor will also undertake to inform the Court if there is any change in the address of the appellants.

(ii) That the appellants will be well represented on each date and if they fail to do so on two consecutive dates, their bail bond will be liable to be cancelled.