

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.194 of 2022**

Arising Out of PS. Case No.-319 Year-2021 Thana- KOILWAR District- Bhojpur

Satya Prakash Mahto @ Kariya Mahto, Son of Kamta Prasad @ Kamta Prasad Singh, Resident of Mohalla- Ibrahim Nagar, P.S.- Ara Town, District- Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

For the Appellant/s	:	Mr. Anil Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.
For the Informant	:	Mr. Navin Kumar Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
ORAL ORDER

3      30-06-2022              Learned counsel for the appellant is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard Mr. Anil Kumar, learned counsel appearing on behalf of the appellant, Mr. Navin Kumar Singh, learned counsel for the informant and learned Spl. PP for the State.

The present appeal under Sections 14-A (2) of the Scheduled Castes/Schedule Tribes (Prevention of Atrocities) Act, (hereinafter referred to as the 'ST/SC Act') has been preferred against the order dated 17.11.2021 passed by learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge SC/ST Act, Bhojpur at Ara in connection with Koilwar P.S. case no. 319 of 2021 registered for the offences punishable under Sections



302/34 of the Indian Penal Code and Sections 3(2)(v) of the SC/ST Act whereby and whereunder the prayer for grant of regular bail of the appellant has been rejected.

As per prosecution case, it is alleged that on 14.07.2021 while the brother of the informant and one Manraj were sleeping in the Godown by putting down the shutter, in the meantime, two persons, with their face covered, entered into the godwon and opened fire. It is further alleged that his brother and one Manraj sustained fire-arm injury. However, the brother of the informant succumbed to the fire-arm injuries. It is also alleged that one month prior to the occurrence, the informant was threatened by the father of Ravindra Rai.

Learned counsel for the appellant submits that the appellant is not named in the F.I.R. and in fact the F.I.R. has been instituted against the father of Rabindra Rai and three unknown miscreants. It is next submitted that the appellant was arrested in connection with Ara Nagar P.S. Case No. 517 of 2021 and from there he was remanded in the present case on 14.09.2021, however, till date neither he has been put on TIP nor any incriminating material has been recovered, which suggests the complicity of this appellant in the present case. It is also submitted that after the remand of the appellant in the



present case, his confessional statement has been recorded showing his complicity, but the said confessional statement is not self inculpatory statement, rather the police has obtained his signature on a plain paper and as such it is not admissible in the eyes of law. It is also submitted that except Ara Nagar P.S. Case No. 517 of 2021 registered for the offences punishable under Sections 399, 402 of the Indian Penal Code and Sections 25(1-b) a, 26/35 of the Arms Act, there is no other case pending against the appellant and moreover the investigation of the present crime is already completed and the charge-sheet has been submitted.

On the other hand, leaned counsel appearing on behalf of respondent no.2 vehemently opposes the bail application and submits that the appellant was remanded in this case and he confessed his complicity in the present crime and he was one of the assailants, as per his confession. It is also alleged that the appellant has criminal antecedent.

Learned Special Public Prosecutor appearing on behalf of the State also opposes the prayer for bail and submits that the appellant confessed his guilt.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that except the



confessional statement of the appellant, there is no material available on record which suggests the complicity of the appellant in the present crime and moreover this appellant is neither named in the F.I.R. nor he has been identified by any one nor any incriminating material has been recovered from his person or possession suggesting the complicity of the appellant and he is in custody since 14.09.2021, let the appellant, named above, 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 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge SC/ST Act, Bhojpur at Ara in connection with Koilwar P.S. case no. 319 of 2021, subject to the condition that one of the bailors will be the close relatives 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.

(v) 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 cancelling the bail bond of the appellant. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

Accordingly the impugned order dated 17.11.2021 is hereby set aside and the present appeal is allowed.

**(Harish Kumar, J)**

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