

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.4278 of 2018

Arising Out of PS. Case No.-1 Year-2017 Thana- SC/ST District- Araria

SHASHI BHUSHAN YADAV @ GABBU YADAV @ GABBU S/o Harendra
Prasad Yadav Resident of Village- Belsara, P.S. Raniganj, District- Araria.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bhaskar Shankar

For the Respondent/s : Mr.Smt Usha Kumari No-1

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

3 09-01-2019 Heard learned counsel for the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail by order dated 15.10.2018 passed by learned **1st Additional Sessions Judge-cum-Special Judge, Araria**, in connection with **Spl. (SC/ST) Case No.11 of 2017 arising out of Araria SC/ST P.S. Case No.01 of 2017** registered under Sections 147, 148, 149, 341, 323, 324, 307, 354(B), 379, 427, 448, 364, 504, 506 and 302 of the IPC and Section 3(1) (g) (s) (v) and 3(2) (v) of SC/ST (Prevention of Atrocities) Act.

Informant has alleged that due to some title and right of fishing dispute over the pond and land adjoining to the said pond, FIR named accused along with 200 to 250 unknown



variously armed with *Lathi, Danda, Bhala, Arrow and Farsa* came at the pond and started assaulting her husband Kamleshwari Rishideo who subsequently succumbed to his injuries. Allegation against appellant is that he fired with his gun and the pellet hit hand of Sravan Rishideo, however, same is being disputed as subsequently during investigation it has been brought to the notice of I.O. that Gabbu Yadav and appellant Shashi Bhusan Yadav @ Gabbu Yadav are different persons. It has been further submitted that the parentage, P.S. and village of accused Gabbu Yadav is different from that of appellant. It has been further submitted that although charge-sheet has been submitted in this case against appellant and other co-accused but no injury report of Sravan Rishideo Yadav is found in the entire case record. Appellant has been remanded in this case on 26.09.2018 and since then he is in custody.

Considering the aforesaid facts and circumstances of the case, let the appellant named above be released on bail upon furnishing bail bond of Rs. 20,000/- 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, with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.



(2) 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the court below.

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

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

(S. Kumar, J)

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