

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.1484 of 2020**

Arising Out of PS. Case No.-933 Year-2019 Thana- MADHEPURA District- Madhepura

NIRAJ KUMAR YADAV Son of Munilal Yadav Resident of Village-Sakhua,  
Police Station-Madhepura, District-Madhepura.

... .. Appellant/s

Versus

THE STATE OF BIHAR Bihar

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Uday Chand Prasad  
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**

**ORAL ORDER**

2      18-09-2020                      The court proceeding has been conducted through  
virtual mode.

Since the court proceeding is not functional in  
physical mode, due to present Pandemic, Covid -19, the present  
appeal has been listed with defects.

Learned counsel for the appellant undertakes to  
remove the defect(s) within a period of four week of resumption  
of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken  
period, the office will place the matter again.

Heard learned counsel for the appellant and the State.

The present appeal has been preferred against the  
order dated 18.12.2019, passed by learned Additional Sessions



Judge-I-cum-Special Judge, Madhepura in SC/ST (CIS) No. 238 of 2019/Madhepura P.S. Case No. 933 of 2019, whereby the prayer for bail of the appellant has been rejected.

The appellant is languishing in custody since 06.11.2019, in a case registered for the offences punishable under Sections 341, 323, 324, 307 and 302 of the IPC, Section 27 of the Arms Act and Sections 3(i)(s) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case, as per the fardbeyan of Dev Narayan Sada, recorded by Amit Kumar Roy, S.I. of Police, Madhepura Police Station on 05.11.2019 at 2.30 A.M. at Sadar Hospital, Madhepura is to the effect that on 04.11.2019, in the night, Lalan Yadav, Manoj Yadav and Laltu Kumar were organizing the orchestra programme when the two sons and one niece of the informant went to see the orchestra programme, but certain accused persons including the appellant started abusing them by calling caste name and when the sons and nephew of the informant left the place then on the way, all the FIR named accused persons assaulted and fired, as a result, the two sons and one nephew of the informant received firearm injuries. Subsequently, one of the sons of the informant died.

Learned counsel for the appellant submits that the



statement of all the three injured has been recorded during investigation, which has been analyzed by the learned Court below in the impugned order, where they have stated that co-accused Vijay resorted to fire, and considering the same, co-accused Ajit Kumar @ Tinku has been granted bail by a Co-ordinate bench of this Court, vide order dated 01.06.2020, passed in Cr. APP (SJ) No. 1297 of 2020. Moreover, the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the appellant is not having any criminal antecedent.

Learned APP for the State submits that the appellant is named in the FIR with specific accusation.

Considering the fact that all the three injured have stated that the firing was made by co-accused Vijay, the investigation has already been concluded and similarly situated co-accused has been granted bail by a Co-ordinate bench of this Court, coupled with statement made in paragraph no.3 of the petition to the effect that the appellant is not having any criminal antecedent, the order dated 18.12.2019, passed by learned Additional Sessions Judge-I-cum-Special Judge, Madhepura in SC/ST (CIS) No. 238 of 2019/Madhepura P.S. Case No. 933 of 2019 is hereby quashed and the appellant is directed to be



released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Additional Sessions Judge-I-cum-Special Judge, Madhepura, in connection with SC/ST (CIS) No. 238 of 2019/Madhepura P.S. Case No. 933 of 2019.

However, in view of the present pandemic COVID- 19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the appellant will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge, Madhepura, in connection with SC/ST (CIS) No. 238 of 2019/Madhepura P.S. Case No. 933 of 2019.



The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

Accordingly, the present appeal is allowed and disposed of.

**(Dinesh Kumar Singh, J)**

Amrendra/-

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