

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1036 of 2021

Arising Out of PS. Case No.-40 Year-2020 Thana- SANDESH District- Bhojpur

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NAGESH YADAV S/o SIYARAM SINGH R/o Village- Rampur, P.S.-
Chandi, Distt- Bhojpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Manoj Kumar, Adv.

For the Respondent/s : Ms. Usha Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 22-06-2021 Heard Mr. Manoj Kumar, learned counsel for the
appellant and Ms. Usha Kumari, Special Public Prosecutor for the
State through video conferencing.

2. The present appeal is directed against order dated
17.12.2020 passed by Additional Sessions Judge-1st Bhojpur, Ara in
connection with Sandesh PS Case No. 40/2020 for the offence
registered under Sections 302/34 of the IPC, Section 27 of the Arms
Act and Section 3(2)(v) SC/ST Act, by which regular bail application
of the appellant has been rejected.

3. The allegation, as per prosecution story, is that a truck
which was being driven by the driver of the informant was
intercepted by the three unknown motorcycle borne criminals and it
has been alleged that one of the three criminals fired upon the driver
on his neck due to which he died on the spot.

4. Learned counsel for the appellant submits that the



appellant has not committed any offence in the manner alleged and his name has transpired on the basis of information said to have been received from the police spy and except the confessional statement of the appellant and co-accused, Aditya Kumar @ Dandi, there is no material to connect the appellant with the present offence. Learned counsel further submits that the appellant has not been put on TIP and no incriminating material has been recovered from his possession. Learned counsel next submits that the co-accused namely, Aditya Kumar @ Dandi has been granted bail by a Bench of this Court *vide* Cr. Appeal (SJ). No. 288/2021 and the case of the appellant is at par with the case of co-accused who has been granted bail except the said co-accused was having six criminal cases pending against him and this appellant has got 13 case as antecedents and he is on bail in all the 13 cases.

5. Learned counsel for the State submits that since appellant has got criminal antecedents, he is not entitled to be released on bail.

6. Having regard to the submissions made by the parties and taking into consideration the material on record and the fact that co-accused person has been granted bail by a Bench of this Court, I am inclined to grant bail to the appellant. Accordingly, the present appeal is allowed, setting aside the order dated 17.12.2020 passed by Additional Sessions Judge-1st Bhojpur, Ara.

7. Let the appellant, NAGESH YADAV, during



pendency of this appeal, be released on bail on furnishing bail bond of Rs. 25,000/- (Twenty-five Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge- 1st Bhojpur, Ara in connection with Sandesh PS Case No. 40/2020, subject to the condition that the appellant will be well represented on each and every date in the trial and if he fails to do so on two consecutive dates, his bail bonds will be liable to be cancelled.

8. It is made clear that at the time of furnishing bail bonds, all the parties shall follow the guidelines of social/physical distancing and sporting masks.

(Anil Kumar Sinha, J)

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