

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 2341 of 2021**

Arising Out of PS. Case No.-826 Year-2020 Thana- MADHEPURA District- Madhepura

ABHAY KUMAR YADAV Son of Late Yogendra Prasad Yadav Resident of
Village - Maruwaha, P.S.- Madhepura (Bharrahi O.P.), District - Madhepura.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr Gopal Kumar Jha, Advocate
For the Respondent/s : Ms Usha Kumari 1, Special PP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 15-07-2021

This case has been listed today for consideration through
Video Conferencing.

2 Heard learned counsel for the appellant and the
learned Special Public Prosecutor (Special PP) for the State.

3 The appellant has preferred the present Appeal under
Section 14 - A (2) of Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989 (for brevity, *SC/ST Act*)
against the refusal of his prayer for regular bail vide order dated
01.03.2021 passed in BP No 68 of 2021 by Additional Sessions
Judge V, Madhepura in a case registered under Section 302 of
Indian Penal Code and Sections 3 (2) (V) (Va) of SC/ST Act in
connection with Madhepura Police Station (for brevity, *PS*) Case



No 826 of 2020 corresponding to Special SC/ST Case No 8 of 2021.

4 The informant's case is that the instant appellant had come to his house and his father accompanied him on his motorcycle to withdraw cash from the Bank. Rs 10,000/- has been withdrawn and, thereafter, it is alleged that the appellant has intoxicated his father and brutally assaulted him and thrown him from the motorcycle near the Mosque. The father was taken for treatment and while under treatment, he died on 29.10.2020.

5 It is submitted by the appellant's counsel that as per prosecution case, the victim was alive for two days after the alleged occurrence. Till then, his statement has not been recorded. The First Information Report (for brevity, *FIR*) itself shows that the deceased had voluntarily accompanied the instant appellant and there was no coercion. Informant is not an eye witness to the occurrence and based on suspicion, the instant appellant has been implicated. There is delay in lodging the FIR, which has been lodged on 30.10.2020 though the alleged occurrence has taken place on 27.10.2020. The appellant bears a clean past and he is in custody since 01.01.2021.

6 Learned Special PP has opposed the prayer for bail. It is submitted that it is the appellant who had taken away the



informant's father on his motorcycle. Thereafter, he has been found injured leading to his death.

7 In my opinion, in view of nature of accusation in the FIR, and submission of parties, a case for grant of regular bail is made out. The impugned order dated 01.03.2021 passed in BP No 68 of 2021 requires interference by this Court, which is, accordingly, set aside.

8 This appeal is allowed. The impugned order dated 01.03.2021 passed in BP No 68 of 2021 by Additional Sessions Judge V, Madhepura in connection with Madhepura PS Case No 826 of 2020 corresponding to Special SC/ST Case No 8 of 2021 is set aside.

9 Let the appellant above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge V, Madhepura in Madhepura PS Case No 826 of 2020 corresponding to Special SC/ST Case No 8 of 2021 subject to the following conditions:

(1) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to



inform the Court if there is any change in the address of the appellant.

(2) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.07.2021
Transmission Date	17.07.2021

