

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.2253 of 2021**

Arising Out of PS. Case No.-287 Year-2020 Thana- ARA MUFFSIL District- Bhojpur

SONU KUMAR S/O MANOHER MAHTO R/O VILLAGE SARAIYA, P.S.
KRASHNAGARH (BARHARA), DISTRICT BHOJPUR

... .. Appellant

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Appellant/s : Mr. Ajit Kumar Singh, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 21-06-2021 Learned counsel for the appellant undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellant and learned Spl. P.P. for the State.

The appellant in the present case is seeking to set aside the order dated 06.01.2021 passed by 1st Additional Sessions Judge, Bhojpur, Ara in B.P. No. 23 of 2021 arising out of Ara Muffasil P.S. Case No. 287 of 2020 registered for the offences punishable under Sections 147, 148, 149, 341, 307, 323, 324, 302, 120(B), 504 and 506 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r)(s), 3(2)(va) SC/ST Act whereby and whereunder the prayer for regular bail of the appellant had been rejected.



Learned counsel for the appellant submits that as per the prosecution story the son of the informant and his two friends were attacked by the accused persons including this appellant. It is alleged that all the accused persons were indiscriminately firing in which two persons namely, Munna Chaudhary and Mukesh Chaudhary received fire arm injury. Later on the son of the informant was attacked by Raja Babu, Ritik, Munna and Bharat who fired many round on Ranjit Kumar Rajak to which ultimately the son of the informant succumbed.

Learned counsel submits that so far as this appellant is concerned, he has been falsely implicated in this case. Learned counsel has pointed out from the impugned order that the learned Special Judge has specifically recorded after going through the case dairy that who had fired upon the deceased and who had caused injuries to Munna Chaudhary and Mukesh Chaudhary. It is submitted that this appellant has not caused any injury and is not involved in killing of the son of the informant and has not fired upon the son of the informant. It is further submitted that the co-accused have been granted bail by learned co-ordinate Benches of this Court in Cr. Appeal (SJ) 1723 of 2021 and Cr. Appeal (SJ) 1445 of 2021.



Mr. Binay Krishna, learned Special P.P. for the State does not dispute the submission of learned counsel for the appellant.

In the given facts and circumstances of the case, after going through the materials available on the record and upon finding that the specific allegation of firing upon the deceased is against the co-accused and again the specific allegation of firing upon the injured has been made against the other two co-accused persons, so far as this appellant is concerned, there is only a general and omnibus allegation of firing against him, he is said to be in custody in connection with this case since 11.09.2020, investigation against him is complete and at this stage there is no submission on behalf of the State that release of the appellant is in any way likely to result in tampering with the evidence or interfering with the course of trial, this Court sets aside the impugned order and directs release of the appellant on bail on furnishing of bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Bhojpur, Ara in connection with B.P. No. 23 of 2021 arising out of Ara Muffasil P.S. Case No. 287 of 2020 subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :



(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that 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 cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This appeal stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

