

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2892 of 2021

Arising Out of PS. Case No.-233 Year-2020 Thana- MANSI District- Khagaria

Mithlesh Yadav, Son of Late Khaltu Yadav @ Ramashish Pd. Yadav, Resident of Village - Saidpur, P.S. - Mansi, District - Khagaria, Bihar.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Suman Kumar Mishra, Advocate
For the Respondent/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 28-07-2021 The matter has been listed today for consideration through video conferencing.

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

The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against the refusal of his prayer for regular bail, vide order dated 10.06.2021 passed by learned Additional Sessions Judge-1st Cum-Special Judge, SC/ST Act, Khagaria, in connection with Mansi P.S. Case No.233 of 2020 instituted for the offence under Sections 341, 323, 307, 504, 506, 34 of the I.P.C., Section 3(i)(r)(s) of the SC/ST (Prevention of Atrocities) Act and Sections 25(1-B)a, 26, 27, 35 of the Arms Act and also for setting aside the aforesaid order dated



10.06.2021.

While the informant was on way to his ration shop, he alleges that the appellant has confined him. Co-accused Himanshu Yadav fired upon him, but the same did not hit the informant. On hulla, accused fled away and a *Katta* was recovered, which was handed over to the police, which has led to lodging of the instant case.

Counsel for the petitioner submits that even as per the FIR, firing is attributed to co-accused. As per specific assertion in the FIR none has suffered any injury in the occurrence. It is a case of false implication, based on extraneous considerations and it is not alleged in the FIR that the occurrence has occurred in presence of any public as only after the occurrence, the public have arrived, whereafter the accused persons have fled away. Having no criminal antecedents, the appellant is stated to be in custody since 13.03.2021.

Learned Special P.P. has opposed the prayer for bail.

Considering the rival submissions, this Court is inclined to allow appellant's prayer for bail.

Accordingly, let the appellant, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the



satisfaction of the learned Additional Sessions Judge-1st Cum-Special Judge, SC/ST Act, Khagaria, in connection with Mansi P.S. Case No.233 of 2020, subject to the following conditions:

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

In the result, the appeal is allowed and the impugned order dated 10.06.2021 is set aside.

(Madhuresh Prasad, J)

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