

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.3014 of 2021**

Arising Out of PS. Case No.-181 Year-2021 Thana- KHAGARIA District- Khagaria

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TAPESHWAR MAHTO @ TAPSI MAHTO, Son of Late Mohar Lal Mahto,
Resident of Village - Bhagwanchak, P.S. - Khagaria (Gangaur), Dist.-
Khagaria

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr.Sanjay Kumar, Advocate

For the Respondent/s : Mr.Binay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 26-07-2021 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 Mrs.

Usha Kumari 1, learned Special P.P. for the State.

Appellant in the present case is seeking to set aside

the order dated 18.06.2021 passed by learned Additional

Sessions Judge- 1st -cum-Special Judge, SC/ST Act, Khagaria in

connection with Khagaria (Gangaur) P.S. Case No. 181 of 2021

registered for the offences punishable under Sections 147, 341,

323, 379, 307, 504 and 506 of the Indian Penal Code and

Section 27 of the Arms Act and Section 3(I)(r)(s)/3(2)(va) of the

Scheduled Castes and Scheduled Tribes Act whereby and

whereunder his prayer for regular bail was rejected.

Learned counsel for the appellant submits that as per the prosecution story when the informant had come to his Jalkar the eight accused persons named in the F.I.R. started assaulting him by lathi and iron rod. The co-accused Ramakant Mahto abused him taking his caste name and then Lalan Mahto abused him and also ordered to kill him. It is alleged that Tapeswar Mahto @ Tapsi Mahto (the appellant) fired upon him which hit upon below the arm. Litu Mahto pressed his neck and snatched away gold chakti.

Learned counsel for the appellant submits that in fact there is a land dispute between the parties and prior to the present case the brother of this appellant had lodged F.I.R. being Khagaria (Gangaur) P.S. Case No. 653 of 2017 and the co-accused Lalan Mahto had filed a complaint petition in the court of learned Chief Judicial Magistrate, Khagaria against the prosecution side. The said complaint was referred to the Police Station and accordingly Khagaria (Gangaur) P.S. Case No. 289 of 2021 has been registered.

Learned counsel further submits that it is a case of false implication, the alleged firing attributed against the appellant is on a non vital part of the body and no serious injury

has been reported. In the impugned order, learned Sessions Judge has though stated that very shortly the trial will commence but it is a case of the year 2021 and from the impugned order itself it would appear that the case is pending for charge, therefore, the trial is not likely to take place in near future.

Mrs. Usha Kumari 1, learned Special P.P. for the State has opposed the prayer for regular bail of the appellant, however, considering the facts and circumstances of the case, there being a land dispute between the parties and further the investigation against the appellant is complete, the chargesheet has already been filed in this case but the trial is not likely to take place in near future, the injury is on non vital part of the body, this Court sets aside the impugned order and directs release of the appellant on bail, let the appellant above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge- 1st-cum-Special Judge, SC/ST Act, Khagaria in connection with Khagaria (Gangaur) P.S. Case No. 181 of 2021, 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.

(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'.