

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.3023 of 2021**

Arising Out of PS. Case No.-89 Year-2021 Thana- SHERGHATI District- Gaya

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ISHWAR YADAV @ BUDUL YADAV S/O LATE SURAJ YADAV
RESIDENT OF VILLAGE-KESHAPI, P.S.-DOBHI, DISTRICT-GAYA

... .. Appellant

Versus

THE STATE OF BIHAR

... .. Respondent

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Appearance :

For the Appellant/s : Mr. N. A. Shamsi, Advocate

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

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

2 26-07-2021 Heard learned counsel for the appellant and learned
Special P.P. for the State.

The appellant, in the present case, is seeking to set aside the order dated 22.03.2021 passed by learned Special Judge, (SC/ST) Gaya in connection with Sherghati P.S. Case No. 89 of 2021 registered for the offences punishable under Sections 147, 149, 153 and 302 of the Indian Penal Code and Sections 3(ii)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act whereby and whereunder his prayer for bail was rejected.

Learned counsel for the appellant submits that as per the prosecution story at about 1 o'clock during night hours the nine named accused persons and others who are residents of village Keshapi shouted thief-thief and assaulted the cousin brother of the

informant after asking his name and caste name. He was left injured, later on he was brought to hospital where he was declared dead.

It is the submission of learned counsel for the appellant that the allegations are completely vague, concocted and baseless. Nine persons are named in the F.I.R. and thereafter 'others' of the village have been made accused by making a general and omnibus kind of allegation.

Learned counsel further submits that the F.I.R. has been lodged on 10.02.2021 at 10:30 pm which in the present case is a substantial delay in lodging of the F.I.R. There is no eye-witness to the alleged occurrence.

Learned Spl. P.P. for the State has though opposed the prayer for bail of the appellant but at the same time accepts that in the F.I.R. there are only general and omnibus allegations.

Considering the facts and circumstances of the case and for the reasons noted hereinabove, this Court sets aside the impugned order and directs release of the appellant above-named 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 Special Judge, (SC/ST) Gaya in connection with Sherghati P.S. Case No. 89 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.

This appeal stands disposed of accordingly.

(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'.