

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1948 of 2020

Arising Out of PS. Case No.-136 Year-2020 Thana- MADHUBANI TOWN District-
Madhubani

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Arun Kumar Jha @ Arun Jha, Son of Late Sushil Jha, Resident of Village
Sundarpur Bhithi, P.S. - Nagar, District - Madhubani (Bihar)

... .. Appellant/s

Versus

1. The State Of Bihar
2. Soman Paswan, Son of Late Rebi Paswan. Resident of Village - Sundarpur
Bhitthi, P.S. - Nagar, District - Madhubani.

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr.Ansul, Advocate Mr. Saket Tiwary, Advocate
For the S t a t e	:	Mr.Binay Krishna, Spl.P.P.
For the Informant	:	Mr. Ravi Prakash, Advocates Mr. Gangan Deo Yadav, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 16-03-2021 Heard learned counsel for the appellant and the

learned counsel for the informant as well as the learned Special

P.P. for the State.

The appellant has preferred the present appeal under
Section 14A(1) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989 against the refusal of his
prayer for regular bail, vide order dated 07.09.2020 passed by
the learned 1st Additional Sessions Judge cum Special Judge,
Madhubani, in connection with Madhubani Town P.S. Case
No.136 of 2020 instituted for the offence under Sections 323,
324, 307, 302, 379, 427, 452, 504, 506, 34 of the Indian Penal



Code, 1860 and under Section 27 of the Arms Act, 1959 and Sections 3(i)(r), 3(ii) of the SC/ST (Prevention of Atrocities) Act, 1989 and also for setting aside the aforesaid order dated 07.09.2020.

The prosecution case is that the instant appellant was attempting to make constructions on the lands, which, the informant claims, have been allotted to them by means of *Purcha*. Upon resistance being made by the informant, the appellant and others have indulged in assault by various means. Specific firearm injury is attributed against the appellant, to have been caused on the grandson of the informant and another person, namely, Deepak Paswan.

It is submitted by the appellant's counsel that the various documents, which have been placed on record by way of supplementary affidavit, including the report of the Revenue *Karamchari*, clarify the position that the land in question was purchased by the appellant. The entire allegation of the same having been allotted for distribution to *Purcha*-holders therefore stands falsified.

The further submission is that in the investigation, none has claimed that the deceased was the informant's grandson. The dispute regarding the land in question was going



on between the parties since long and earlier the appellant had lodged Madhubani Town P.S. Case No.477 of 2019 in which the present informant was an accused. The other alleged victim of firearm assault by the appellant, namely, Deepak Paswan, in his statement recorded in course of investigation has not named the appellant as being one who fired upon him. It is in these circumstances that the entire allegations against the instant appellant become doubtful, if not falsified. The appellant in the circumstances is in custody since 04.06.2020.

Learned counsel for the informant submits that the firearm injury, which has been attributed against the appellant, stands corroborated by the injury report. Learned APP has also opposed the payer for bail. Both have, however, unable to point out from the investigation whether any body other than the informant has supported the allegation of firing attributed against the appellant, though various persons have been examined as also the fact that there was a free fight between the parties, which has consistently been stated by all the persons examined during the course of investigation.

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 1st Additional Sessions Judge cum Special Judge, Madhubani, in connection with Madhubani Town P.S. Case No.136 of 2020.

In the result, the appeal is allowed and the impugned order dated 07.09.2020 is set aside.

This Court would expect that the appellant's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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