

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.3316 of 2021**

**In
CRIMINAL MISCELLANEOUS No.38964 of 2020**

Arising Out of PS. Case No.-7 Year-2015 Thana- KATIHAR MUFFASIL District- Katihar

GURUDEV MANDAL @ GURUDEO MANDAL son of Sitaram Mandal
Resident of Mahedai, Police Station - Muffasil, District - Katihar.

... .. Appellant

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Rajendra Prasad Sah, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.

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

6 18-08-2021 Heard Mr. Yogesh Chandra Verma, learned Senior Counsel assisted by Mr. Rajendra Prasad Sah, learned Advocate and Mr. Binay Krishna, learned Special Public Prosecutor for the State.

Appellant, in the present appeal, is seeking setting aside the impugned order and his release on bail in connection with Katihar Muffasil P.S. Case No. 07/2015 registered for the offence under Section 302, 307, 120B, 34 of the Indian Penal Code and Section 27 of the Arms Act and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Appellant is in custody since 30.06.2020.

Learned Senior Counsel for the appellant submits that in the alleged occurrence in which the wife of one Jamil Lal

Uraon has been killed and he himself suffered injury, the appellant is not named as an assailant. The allegation of firing has been made against co-accused Suresh Yadav, Md. Umar Ali and Harendra Uraon (Mukhiya). After 46 days of the alleged occurrence when the injured Jamil Lal Uraon made his statement he named six persons who were there on the two motorcycles. This appellant is said to be one sitting behind one of the motorcycles.

Learned Senior Counsel submits that no witness has named this appellant as assailant. The investigation against the appellant remained pending for a long time and only recently pursuant to the 12th report of the D.I.G. Purnea the name of the appellant was involved in this case and he was arrested. This appellant has otherwise no criminal antecedent.

Learned Special P.P. for the State has though opposed the prayer for bail of the appellant but at the same time points out to this Court the statements of independent witnesses recorded in paragraph nos. 591, 592 and 593 in the case diary where they have stated that this appellant was not involved in the alleged occurrence and that he was getting treatment of his illness during this period. Even the other witnesses have not named this appellant as assailant.

Considering the facts and circumstances of the case stated hereinabove, in the nature of the material placed before this Court, this Court sets-aside the impugned order and directs release of the appellant above-named 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 1st Additional Sessions Judge – cum – Special Judge, Katihar in connection with Katihar Muffasil P.S. Case No. 07/2015, 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 petitioner and in case at any stage

it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. 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)

Rajeev/-

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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'.