

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.509 of 2021**

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

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Kamaldeo Thakur @ Kamalbhab Thakur Son of Late Fudan Thakur Resident
of Village - Sundarpur Bhithi, P.S.- Madhubani Town, District - Madhubani.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant : Mr.Subhash Kumar Jha, Advocate
For the State : Mr. Binay Krishna Spl PP

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT**

Date : 05-04-2021

Heard learned counsel for appellant and learned Spl. PP
for the State.

2. Learned counsel for the appellant is expected to
honour his undertaking given in the instant case for depositing the
requisite court fee and to remove the defects as pointed out by
office when called upon to do so.

3. The appellant has preferred the present appeal under
Section 14A(2) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989 (for short 'the Act') against the
refusal of prayer for regular bail vide order dated 14.09.2020,
passed by learned Additional District and Sessions Judge-1st-cum-
Special Judge SC/ST Act, Madhubani, in Madhubani Town PS
Case No. 136 of 2020, corresponding to GR No. 84 of 2020
registered under Sections 341, 323, 324, 307, 302, 379, 427, 452, 504
and 506/34 of the Indian Penal Code, Section 27 of the Arms Act
and Sections 3(i)(r), 3(ii) (va) of the SC/ST Act.



4. The allegations made in the First Information report have to be read in the background of an earlier case lodged by the accused persons against the prosecution party and the subsisting land dispute. On the fateful day, it is alleged that the accused persons were attempting to make construction and erect pillars, the same has been resisted by the informant/prosecution party, upon which, there is allegation of firing by the appellant and other accused persons. The specific allegation against the appellant is firing upon the arm of Deepak Paswan.

5. It is submitted by the appellant's counsel that specific allegation of firing was also attributed against co-accused, namely Arun Kumar Jha @ Arun Jha who has been allowed bail in Cr. Appeal (SJ) No. 1948 of 2020. The other co-accused, namely Mantu Jha @ Narendra Jha has also been allowed bail in Cr. Appeal (SJ) No. 334 of 2021. Apart from the claim for bail on the ground of parity, it is submitted that the allegations are false and motivated on account of the subsisting land dispute and earlier prosecution launched by the accused persons. The alleged victim Deepak Paswan has not named the appellant when his statement was recorded in the investigation, wherein, he has stated about the firing by various persons in the course of the dispute arising out of erection of pillars on the disputed land. The appellant's name has been dragged on the basis of suspicion.

6. The learned Spl. PP has opposed the prayer for bail. He, however, is not in a position to dispute the fact that two named co-accused persons, including one against whom gun shot is attributed has been allowed bail. Further, on going through the statements of the alleged victim, Deepak Paswan, in the case diary which had earlier been requisitioned, he cannot point out that the alleged victim, in his statement, in any manner, supported the



specific allegation against the appellant. The appellant is stated to be in custody since 04.06.2020 and he is on bail in another case pending against him since before.

7. Considering the rival submissions, this appeal is allowed. The impugned order dated 14.09.2020 passed by learned Additional District and Sessions Judge-1st-cum-Special Judge SC/ST Act, Madhubani in Madhubani Town PS Case No. 136 of 2020 is set aside. Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-1st-cum-Special Judge SC/ST Act, Madhubani in Madhubani Town PS Case No. 136 of 2020, GR No. 84 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.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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