

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.334 of 2021**

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

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MANTU JHA @ NARENDRA JHA Son of Late Sushil Jha Resident of
Village- Sundarpur Bhitthi, P.S.- Madhubani, District- Madhubani.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate
	:	Ms. Vaishnavi Singh, Advocate
For the Respondent/s	:	Mr. Akhileshwar Dayal, APP

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

2 09-03-2021 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 learned
A.P.P. for the State.

The appellant in the present case is seeking to set
aside the order dated 26.11.2020 passed by learned Additional
Sessions Judge-1-cum-Special Judge, Madhubani in connection
with G.R. No. 84 of 2020 in connection with Madhubani Nagar
P.S. Case No. 136 of 2020 registered for the offences punishable
under Sections 341, 323, 324, 307, 302, 379, 427, 452, 504,
506/34 of the Indian Penal Code and Section 27 of the Arms Act
and Sections 3 (1) (r) and 3(II) va of the SC/ST (Prevention of



Atrocities) Act.

Learned counsel for the appellant submits that as per the prosecution story on 03.06.2020 the alleged dispute took place after demarcation of a piece of land. It is alleged that in the said occurrence accused persons altogether 13 named accused and 30-40 others assembled on the place of occurrence, they pulled down the brick wall and the pillars and all of them started indiscriminate firing. As per the F.I.R. the shot fired by co-accused Arun Jha hit the grandson of the informant and the shot fired by another co-accused Kamaldev Thakur hit Deepak Paswan on his left hand. Lalan Paswan who happened to be the grandson of the informant succumbed to his injuries.

Learned counsel submits that it is a case of over implication of the accused. It is his submission that in the First Information Report there is a general and omnibus allegation that all the accused were lashed with rifle and gun, no specific fire arm has been attributed in the hand of this appellant and there is no allegation that this appellant had fired any shot which hit anybody from the prosecution side.

Learned counsel has further pointed out that prior to the present case the co-accused Arun Kumar Jha had lodged Sadar P.S. Case No. 477 of 2019 dated 23.12.2019 against the



present prosecution side. There is also a counter case of the alleged occurrence which took place on 03.06.2020 and from Annexure '4', '5' and '6' it would appear that three F.I.Rs have been lodged against the present prosecution side with regard to the alleged occurrence.

Learned counsel further submits that this appellant has no criminal antecedent and it is nothing but a case of false implication.

Learned A.P.P. for the State has opposed the prayer for regular bail of the appellant, it is submitted that this appellant is named in the F.I.R., however, it is not controverted that there is no allegation of firing causing any injury to the prosecution side against this appellant. From the impugned order it appears that the charges have been framed, however the evidence has yet not started.

In the given facts and circumstances of the case, wherein there is no specific allegation against this appellant alleging any fire arm injury caused by him to anybody to the prosecution side, in the nature of the materials in the form of counter case against the prosecution side and that the appellant has no other criminal antecedent and his appearance may be secured in course of trial, there being no submission on behalf



of the State that his release at this stage is likely to result in tampering with evidence or interfering with the course of trial, this Court sets aside the impugned order.

Let the appellant 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-1-cum-Special Judge, Madhubani in G.R. No. 84 of 2020 in connection with Madhubani Nagar P.S. Case No. 136 of 2020, 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 in course of trial the appellant will appear on each and every date fixed in the matter



and two consecutive defaults in putting appearance shall invite towards cancellation of his bail.

And further condition that the court below shall verify the criminal antecedents 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 bond in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The 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'.

