

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4373 of 2021**

Arising Out of PS. Case No.-43 Year-2021 Thana- SC/ST District- Saran

RANJIT KUMAR DIVEDI @ RANJEET KUMAR DWIVEDI S/O LATE
SUDAMA DIVEDI R/o village- Molnapur, P.S.- Bheldi, District- Saran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Abhijeet Gautam, Advocate
For the Respondent/s	:	Mr.Usha Kumari 1, Spl.P.P.
For the Informant	:	Mr. Rajiv Ranjan, Adv.

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

2 02-11-2021 Heard learned counsel for the appellant, learned
Special P.P. for the State and learned counsel for the informant.

The appellant in the present case is seeking setting aside of the order dated 29.09.2021 passed in Saran SC/ST P.S. Case No.43/2021 for the offences punishable under Sections 147, 149, 341, 323, 324, 307, 302 and 504 of the Indian Penal Code and Section 3(i)(r)(s) of the SC/ST (POA) Act passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Saran at Chapra whereby and whereunder the prayer for bail of the appellant has been rejected. He is in custody since 07.09.2021. He has no criminal antecedent.

As per the prosecution story, this appellant is said to have come having a pistol in his hand and instigated the co-



accused whereupon the co-accused named in the FIR came lashed with rod, farsa, spade, daab and lathi and it is alleged that altogether 14 named accused persons had assaulted the deceased and other family members of the deceased.

Learned counsel for the appellant submits that so far as this appellant is concerned, it is alleged that he was having a pistol in his hand but there is no allegation of firing from the said pistol and neither the deceased nor any of the injured members of the family of the deceased has suffered firearm injury.

Learned counsel further submits that the allegation of causing assault on the deceased by various means and weapons are general and omnibus against several accused persons named in the FIR.

It is further submitted that there is a counter case also in which this informant is an accused. In fact two rival groups having different political ideologies seem to have indulged in a free fight on certain issues. So far as this appellant is concerned, he has been falsely implicated because of that village rivalry. The appellant has remained in custody since 07.09.2021, investigation against him is complete and has got no criminal antecedent.



Learned counsel for the informant has opposed the prayer for bail of this appellant. It is submitted that this appellant is one of the participants in the alleged occurrence. Learned counsel for the informant, however, accepts in course of his submissions that as per the prosecution story this appellant was having a pistol in his hand but there is no allegation of firing from the said pistol and neither the deceased nor any of the injured has suffered firearm injury.

Having regard to the facts and circumstances of the case, the specific assertion of the informant that this appellant was having a pistol in his hand but the fact that no firing has been made from the said pistol and neither deceased nor any of the injured witness has suffered any firearm injury, further the appellant has remained in jail for over one year and at this stage the investigation is complete but the trial is not likely to take place in near future, this Court sets aside the impugned order and directs release of the appellant on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in connection with Saran SC/ST P.S. Case No.43/2021, subject to the condition as laid down under Section



437(3) Cr.P.C.

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.

(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'.

