

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.435 of 2022

Arising Out of PS. Case No.-53 Year-2021 Thana- RAMPUR District- Gaya

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Bishu Yadav @ Vishwajeet Kumar @ Bishu, S/O Jeetan Yadav @ Ranjeet
Yadav, R/o Mohalla- Mustafabad, P.S.- Rampur, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanjeev Kumar, S/o Vijay Prasad Tanti, R/o Mohalla- Gewal Bigha Devi
Sthan, P.S.- Rampur, District- Gaya

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Krishna Prasad Singh, Sr. Advocate Mr. Bhaskar Shankar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.
For the Respondent No.2:	:	Mr. Sanjay Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-07-2022 Learned counsel for the appellant is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Krishna Prasad Singh, learned senior
counsel appearing on behalf of the appellant assisted by Mr.
Bhaskar Shankar, learned Advocate, Mr. Sanjay Kumar Sinha,
learned counsel appearing for respondent no.2 and learned Spl.
PP for the State.

The present appeal under Section 14(A) (2) of the
Scheduled Castes/Scheduled Tribes, Prevention of Atrocities
Act, (hereinafter referred to as 'SC/ST Act') has been preferred
against the order dated 10.01.2022 passed by the learned
Exclusive Special Judge, SC/ST Act, Gaya in connection with
I.A. No. no. 04 of 2021, arising out of Rampur P.S. case no.



SC/ST Case No. 53 of 2021, registered for the offences punishable under Sections 307, 386, 323, 341 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r)(s) 3(2v) of the SC/ST Act whereby the prayer for grant of regular bail of the appellant has been rejected.

As per prosecution case, it is alleged that while the informant was constructing house, in the meantime co-accused Shamu Yadav came and asked to stop the construction work and also asked to call the owner of the house and when the informant tried to call the owner on his mobile in the meantime F.I.R. named accused persons fired upon him due to which he received fire arm injury.

Learned counsel for the appellant submits that the appellant is not named in the F.I.R. and his name has transpired on the confessional statement of Shamu Yadav, who disclosed about the complicity of the appellant in the present case. It is further submitted that other co-accused persons, whose names were also transpired on the confessional statement of co-accused Shamu Yadav, have already been granted bail by the learned co-ordinate Bench of this Court in Cr. Appeal (SJ) No. 3402 of 2021 vide order dated 07.10.2021, the copy of which has been has been produced before this Court and the same is taken on the record. It is next submitted that the appellant is in custody



since 12.12.2021.

On the other hand, learned counsel appearing on behalf of respondent no.2 submits that the appellant is found involved in three other criminal cases and his name has transpired in the confessional statement of co-accused. In response to the aforesaid submission, learned senior counsel for the appellant submits that the appellant is on bail in all the cases.

Learned Special Public Prosecutor appearing on behalf of the State also opposes the bail application of the appellant.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that the appellant is not named in the F.I.R. and his name has transpired only on the confessional statement of the co-accused, apart from the fact that the appellant is in custody since 12.12.2021, let the appellant, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Act, Gaya in connection with I.A. No. no. 04 of 2021, arising out of Rampur P.S. case no. SC/ST Case No. 53 of 2021, subject to the condition that one of the bailors will be the close relative of the appellant with further



conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the appellant and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

Accordingly the impugned order dated 10.01.2022 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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