

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.529 of 2022

Arising Out of PS. Case No.-178 Year-2021 Thana- MAGADH UNIVERSITY District- Gaya

1. KEDAR YADAV S/o Late Nanku Yadav R/o village- Bhola Bigha, Gangiyatand, P.S.- Magadh University, District- Gaya
2. Ajay Yadav @ Ajay Kumar S/o Gurak Yadav @ Rohan Yadav R/o village- Bhola Bigha, Gangiyatand, P.S.- Magadh University, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Sharwan Kumar S/o Ramadhar Manjhi R/o village- Bhola Bigha, Bhun Toil, P.S.- Magadh University, District- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. N.K. Agrawal, Sr. Advocate
Mr.Ujjawal Kumar Singh, Advocate

For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 14-07-2022 Heard learned counsel for the appellants and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the appellants seek bail in connection with Magadh University P.S. Case No. 178 of 2021 registered for the alleged offences under Sections 147/148/149/341/323/379/354/307/427/302 of the Indian Penal Code and Sections 3(i) (r)(s)(w), 3(2)(v) of the SC/ST Act.



The prosecution case is that the appellants along with a number of other co-accused persons assaulted the informant, his family members and neighbours or belonging to the schedule caste community in the back ground of dispute over mukhiya election. A number of persons received injuries and one of the injured subsequently died.

Learned senior counsel Shri. N.K. Agrawal appearing on behalf of the appellants submits that appellants have been falsely implicated in this case and dispute due to panchayat election is admitted in the FIR. Altogether 22 persons have been named as accused but no specific overt act has been attributed to the appellants. Allegations are general and omnibus. FIR has been registered on 18.11.2021 and the injured Pramila Devi is stated to have died on 27.11.2021 so death was not immediate result of assault. Even there is no injury report of Pramila Devi on record except for inquest and post-mortem report. Moreover, there could be no application of provision of SC/ST Act as alleged occurrence did not take place in public view.

Learned senior counsel also pointed out that so many persons were assaulted by more than 20 co-accused persons still only two injury reports are available on record and only two external injuries have been observed in the post-mortem of the



deceased though inquest report mentioned some internal injury on head. Injuries have been found to be simple in nature. It shows the injuries have been faked by the informant side. It has further been submitted that the appellants are in custody since 19.11.2021.

Learned counsel appearing on behalf of the informant/respondent no. 2 and learned APP for the State opposes the contention made on behalf of the appellants.

Learned counsel for the informant submits that in case diary of paragraph 45 to 53, the statement of witnessess have been recorded who have received injuries in the assault. In paragraph 50 of the case diary that Fubanti Devi has specifically named appellant Kedar Yadav and one Naresh Yadav as the assailants of deceased Pramila Devi. Deceased Pramila Devi was pregnant and she was assaulted by the abovenamed two persons and others. Learned counsel further submits that due to assault by the appellant Kedar Yadav on Pramila Devi, she lost her life.

Learned counsel for the informant further submits that post-mortem report mentioned only the observable injuries on body however, there has been internal injury in the head and that has been mentioned inquest report as well. Cause of death has



been stated to be head injury.

Having regard to the submissions made hereinabove and considering the fact that the allegation against the appellant Ajay Yadav are non specific, general and omnibus along with other co-accused persons, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST, Gaya in connection with Magadh University P.S. Case No. 178 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

However, as there is specific allegation against the appellant Kedar Yadav for causing death of deceased Pramila



Devi, I am not inclined to enlarge the petitioner on bail at this stage.

Accordingly, his prayer for grant of bail is rejected.

The Trial Court is directed to conclude the trial expeditiously preferably within a year.

However, if the trial is not concluded within the aforesaid period, the petitioner will be at liberty to renew his prayer for bail.

(Arun Kumar Jha, J)

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