

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.555 of 2022**

Arising Out of PS. Case No.-180 Year-2021 Thana- BHARGAMA District- Araria

GAJO YADAV SON OF LATE SINGHESHWAR YADAV Resident of
Village - Raghunath Pur, P.S.- Bhargama, Distt.- Araria.

... .. Appellant/s

Versus

1. The State of Bihar
2. UMESH RISHIDEO SON OF KARTIK RISHIDEO Resident of Village -
Raghunath Pur, P.S.- Bhargama, Distt.- Araria.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Durgesh Nandan
For the Respondent/s	:	Ms.Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT**

Date : 22-09-2022

Office has reported that as per process server report,
respondent no.2 refused to received notice.

Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

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

The appellant has filed the instant appeal against the
order dated 04.01.2022 passed by the learned 1st Additional
Sessions Judge cum Special (SC/ST) Judge, Araria whereby the
prayer for bail of the appellant in connection with Bhargama P.S.
Case no. 180/2021 registered under sections 147, 148, 149, 341,
323, 324, 325, 326, 307, 302, 379 and 504 of the Indian Penal
Code and sections 3(i) (r) / 3 (i) (s), 3 (2) (v) of the SC & ST



(POA) Act and Section 27 of the Arms Act was rejected.

As per prosecution case, accusation against the appellant and others is that they came to the disputed land with deadly weapons alongwith 20-25 unknown persons and started cutting the paddy crops and when the informant's uncle Chandeshwari Rishideo raised objection, he was dashed and forced to flee away. Thereafter, Chandeshwari Rishideo informed the matter to his family. In the meantime, co-accused Dayanand Yadav started abusing and discriminating firing upon Chandeshwari Rishideo causing injury upon his ribs and other part of the body as a result of which and he fell down. It is further alleged that co-accused, Dayanand Yadav also made firing upon the informant due to which he sustained injury on his both arms. It is further alleged that co-accused, Pramod Yadav fired upon Bhim Rishideo causing injury on his back and when the aunt of the informant namely, Kewali Devi came to rescue him, appellant, Gajo Yadavo assaulted her by means of lathi blow and she also sustained injuries. The injured persons were brought to PHC, Bhargama but they were referred to Sadar Hospital, Araria and on the way, the injured Chandeshwari Rishideo succumbed to death.

Learned counsel for the appellant submits that the appellant is in custody since 24.12.2021 and bears no criminal



antecedent. There is allegation against the appellant of assault by lathi upon informant's aunt, Kewali Devi, who has been examined by the doctor and the doctor found one injury on the wrist as the same on non-vital part of the body which is said to be grievous in nature. He further submits that the allegation of firing against co-accused, Dayanand Yadav and co-accused, Promod Yadav and there is no allegation of firing against the appellant. Charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Learned counsel for the appellant further submits that appellant has falsely been implicated in this case due to land dispute. There is no specific allegation against the appellant. Allegation against the appellant is general and omnibus in nature.

The learned Spl. PP for the State vehemently opposes the prayer for bail of the appellant.

Considering the facts and circumstances of the case, period of custody, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides, keeping in view clean antecedent of the appellant and also taking into consideration the material available on record, impugned order dated 04.01.2022 is hereby set aside and present appeal is allowed.



The appellant is directed to be enlarged on bail in connection with Bhargama P.S. Case no. 180/2021 on furnishing bail bond of Rs.10,000/ (Rupees Ten thousand) with two sureties of the like amount each to the satisfaction of the learned learned 1st Additional Sessions Judge cum Special (SC/ST) Judge, Araria subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

amitkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.09.2022
Transmission Date	26.09.2022

