

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.560 of 2022**

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

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1. PRAMOD YADAV Son of Dayanand Yadav Resident of Village - Raghunath Pur, P.s.- Bhargama, Distt.- Araria.
 2. RAJLA @ RAJIV YADAV Son of Late Tarani @ Tara Chand Yadav Resident of Village - Raghunath Pur, P.s.- Bhargama, Distt.- Araria.

... .. Appellant/s

Versus

1. The State of Bihar 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, Adv.

For the Respondent/s : Mr.Sadanand Paswan, S.P.P.

**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 receive the notice.

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

At the very outset, learned counsel appearing for the appellants submits that he does not want to press the appeal of appellant no. 1, namely, Pramod Yadav for the present and



hence, he may be permitted to withdraw the appeal of appellant no. 1.

Considering the aforesaid submission, the same stands dismissed as withdrawn.

Heard learned counsel for the appellant no. 2, namely, Rajla @ Rajiv Yadav and learned Special Public Prosecutor for the State.

The appellant no. 2 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 no. 2 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, 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 no. 2 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 fled away. Thereafter, Chandeshwari Rishideo informed the matter to his family. In the meantime, co-accused



Dayanand Yadav started abusing to Chandeshwari Rishideo and made indiscriminate firing upon him causing injury upon his ribs and other part of the body as a result of which Chandeshwari Rishideo 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 came to rescue them, co-accused Gajo Yadav assaulted her by means of lathi. The injured persons were brought to PHC, Bhargama but they were referred to Sadar Hospital, Araria and on the way, injured Chandeshwari Rishideo succumbed to death.

Learned counsel appearing for the appellant no. 2 submits that appellant no. 2 is in custody since 12.11.2021 and bears one criminal antecedent. He further submits that there is no specific allegation of any overt-act against the appellant no. 2 and he is only a member of mob. There is land dispute between the parties. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that appellant no. 2 has falsely been implicated in this case due to land dispute.



The learned Special Public Prosecutor for the State vehemently opposes the prayer for bail of the appellant no. 2.

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 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 no. 2, namely, Rajla @ Rajiv Yadav 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 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 no. 2 will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial Court itself.



(iii) If the appellant no. 2 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)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.09.2022
Transmission Date	27.09.2022

