

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.881 of 2022**

Arising Out of PS. Case No.-235 Year-2021 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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Vikash Kumar @ Vikesh Kumar Yadav @ Vigesh Yadav @ Vikash Yadav, S/o
Sohan Yadav, R/o- Vill - Saudar Bigha, P.S. Bodh Gaya, Distt.- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Vijay Vishwakarma S/o Late Musharhari Mistry R/o Vill- Kendua, P.O.-
Kendua, P.S. - Magadh Medical Distt. - Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Amresh Kumar Sinha, Advocate Mr. Abhishek, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan,APP

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 10-11-2022

Heard learned counsel for the appellant and learned
APP for the State. None is present on behalf of the informant
though on previous dates, there has been appearance on behalf
of the informant/respondent no. 2.

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

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail vide
order dated 09.02.2022 passed by the learned Exclusive Special
Judge, S.C/S.T, Gaya in M.M.P.S. Case No. 235/2021 in



connection with Magadh Medical P.S. Case No. 235 of 2021 registered for the alleged offences under Sections 302, 120(B) and 34 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(2) (v) of the SC/ST (Prevention of Atrocities) Act, 1989.

As per prosecution case, the appellant and other co-accused persons called out the son of the informant and his friend below a bridge and two co-accused Aman Paswan caught hold of the son of the informant and co-accused Gore Babu @ Kaila fired upon him in his abdomen. The son of the informant died while undergoing treatment.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. It is clear from the F.I.R. that informant is not an eye witness and he has not seen the occurrence. Even from the facts of the F.I.R. it is clear that there is no specific allegation against this appellant as allegation of catching hold of the hand of the deceased is against Aman Paswan and firing upon him is against Gore Babu. Charge sheet has been submitted in this case and the appellant is in custody since 14.09.2021. The appellant has got no criminal history.

Learned Special Public Prosecutor for the State



opposes the prayer for bail of the appellant. Learned Special Public Prosecutor further submits that the friend of the deceased Sintu Kumar is an eye witness and he has named this appellant who was also present with other co-accused persons. He further submits that a video recording of last moment of the deceased is also on record in which the deceased has named the appellant along with other co-accused persons who fired upon him.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the nature of allegation which is not specific against this appellant and no specific overt act has been attributed to him except that he was present at the place of occurrence and further considering his period of custody along with submission of charge sheet against him, the appellant 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, S.C/S.T, Gaya in connection with Magadh Medical P.S. Case No. 235 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close



relative of the appellant.

(ii) The appellant 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 appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal stands allowed.

(Arun Kumar Jha, J)

Gautam/daya

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.11.2022
Transmission Date	10.11.2022

