

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1766 of 2022**

Arising Out of PS. Case No.-96 Year-2021 Thana- GWALPARA District- Madhepura

Brahmdeo Yadav Son Of Late Kusumlal Yadav R/O Village- Bisbari, P.S.-
Gwalpara, District- Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Santu Kumar Ram Son Of Late Shyam Lal Ram R/O Village- Bishwari,
Ward No.-04, P.S.- Gwalpara, District- Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Uday Chand Prasad, Advocate Mr. Manoj Kumar, Advocate
For the Respondent/s	:	Mr.Usha Kumari 1, APP Mr. Sushil Kumar Jha, APP
For the Informant	:	Mr. Bam Bahadur Jha, Advocate

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

Date : 22-09-2022

Heard learned counsel for the appellant 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.

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 12.04.2022 passed by the learned Additional Session
Judge 1st -cum-Special Judge, Madhepura in connection with



SC/ST Case No. 46 of 2021, Gwalpara P.S. Case No. 96 of 2021 registered for the alleged offences under Sections 147, 148, 149, 341, 323, 324, 384, 307 and 302 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(2) (v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per prosecution case, the father of the informant was called at the house of the appellant where he was brutally assaulted and murdered by other co-accused persons.

Learned counsel for the appellant submits that the appellant was not named in the F.I.R. but he has been roped in this case on the basis of fact that co-accused Janeshwar Yadav called the deceased at the doors of this appellant and later on, the dead body was recovered from the said place. But, in fact the co-accused has never called the father of the informant at the doors of the appellant and the appellant has no concern with the other co-accused persons. No allegation has been levelled against this appellant and he was not stated to be present at the place of occurrence. The allegation of assault is against 17 named co-accused persons and not a single witness has claimed that they saw the appellant in active participation at the place of occurrence. The appellant was present at his house from where



he was arrested and if they were guilty, he would have fled away from his house immediately. Charge sheet has been submitted in this case and the appellant is in custody since 27.11.2021.

Learned Special Public Prosecutor for the State as well as learned counsel for the informant submits that the appellant is the person at whose behest this occurrence has taken place. The dead body was recovered from the doors of this appellant.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and further considering the fact that no specific allegation has been levelled against this appellant and no specific overt act has been attributed to him and further considering his period of custody along with submission of charge sheet, 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 Additional Session Judge 1st -cum-Special Judge Madhepura in connection with SC/ST Case No. 46 of 2021, Gwalpara P.S. Case No. 96 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/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.09.2022
Transmission Date	26.09.2022

