

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1784 of 2022

Arising Out of PS. Case No.-141 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

1. MANISH SINGH SON OF RAVAN SINGH R/O VILLAGE- AWARHI,
P.O. AND P.S.- MOHANIA, DISTRICT- KAIMUR AT BHABUA
2. LALU GUPTA SON OF LATE GHURHU SAH R/O VILLAGE- AWARHI,
P.O. AND P.S.- MOHANIA, DISTRICT- KAIMUR AT BHABUA

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. MITHUN KUMAR BHARTI SON OF DHIRENDRA KR. BHARTI R/O
VILLAGE- STUVARGANJ, WARD NO.-7 MOHANIA, P.S.- MOHANIA,
DISTRICT- KAIMUR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Chandra Mohan Jha
For the State	:	Mrs.Usha Kumari 1
For Respondent No. 2	:	Mr. Ram Ishwar Prasad

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 29-09-2022

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 appellants, learned counsel for respondent no. 2 and learned Special Public Prosecutor for the State.

The instant appeal has been preferred by the appellants against the order dated 20.04.2022 passed by the learned 1st Additional Sessions Judge cum Special Judge, Kaimur at Bhabua whereby the prayer for bail of the appellants in connection with Mohania P.S. Case no. 141 of 2022 registered under Sections 341,



324, 307, 504, 506, 34 of the Indian Penal Code, 27 of the Arms Act and Section 3(i)(r)(v) of the SC/ST, Act was rejected.

As per prosecution case, appellants and others in drunken condition abused the informant by saying caste name. It is further alleged that appellants and other made firing upon the informant.

Learned counsel for the appellants submits that the appellants are in custody since 30.03.2022. Appellant no. 1 bears criminal antecedent of five cases and appellant no. 2 bears criminal antecedent of six cases. Charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Learned counsel for the appellants further submits that there is neighbourhood dispute and at the spur of moment the alleged occurrence took place. He further submits that co-accused Kundan Tiwari has been granted bail vide Cr. Appeal (SJ) No. 1884 of 2022 and the case of present appellants stands on better footing keeping in view this fact that there is no specific allegation of firing against the present appellants rather there is general and omnibus allegation. He further submits that alleged firearm injury, which is simple in nature, is not on the vital part of body, negating intention of appellants to cause death thereof. From bare perusal of the FIR, it appears that there is no



overt-act against the appellants which attracts atrocities within the meaning of the Act. He further submits that similarly situated co-accused Anand Tiwari has already been granted bail vide Cr. Appeal (SJ) No. 1873 of 2022.

The learned Special Public Prosecutor for the State duly assisted by learned counsel for the respondent no. 2 vehemently opposed the prayer for bail of the appellants.

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 20.04.2022 is hereby set aside and present appeal is allowed.

The appellants are directed to be enlarged on bail **after framing of charge** in connection with Mohania P.S. Case no. 141 of 2022 on furnishing bail bond of Rs.10,000/ (Rupees Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge cum Special Judge, Kaimur at Bhabua, 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) Appellants 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 appellants tamper 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	01.10.2022
Transmission Date	01.10.2022

