

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1928 of 2022**

Arising Out of PS. Case No.-117 Year-2020 Thana- PATEPUR District- Vaishali

Md. Yasin S/o Md. Qutubuddin, Resident of Village- Chandpur Fatah, P.S.-
Patepur, District- Vaishali. Appellant/s

Versus

1. The State of Bihar
2. Suman Kumar, S/o Vinod Sah, Resident of Village- Kasturi Sarai, P.S.-
Patepur, District- Vaishali. Respondent/s

Appearance :

For the Appellant/s : Mrs. Bela Singh, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER**

3 13-10-2022 Learned counsel for the appellant is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mrs. Bela Singh, learned counsel appearing
on behalf of the appellant and Mr. Sadanand Paswan, learned
counsel for the informant/respondent No. 2 as well as learned
Spl. PP for the State.

The present appeal under Section 14(A)(2) of the
Scheduled Castes and the Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter referred to as “SC/ST Act”)
has been preferred against the order dated 06.04.2022 passed by
the learned Special Judge, SC/ST Act, Vaishali at Hajipur in
connection with Patepur P.S. Case No. 117 of 2020 registered
for the offences punishable under Sections 302, 393, 307 of the



Indian Penal Code and Section 27 of the Arms Act and Sections 3(2)(Va) SC/ST (POA) Act, whereby, the prayer for bail of the appellant has been rejected.

The prosecution case is based on the fardbayan of the informant/respondent no. 2, alleging therein, that on 25.06.2020 at about 11:00 AM when he was standing at service point along with cash of Rs. 88,000/-, in the meantime, three miscreants came on a motorcycle and snatched his bag. When the villagers tried to apprehend them, the miscreants fired, due to which one 'Mahesh Paswan' suffered firearm injury and later on he succumbed to injuries.

Learned counsel appearing on behalf of the appellant submits that the FIR has been instituted against unknown miscreants, however, during the course of investigation, some witnesses claimed to identify co-accused 'Ahmad Hussain', who was found involve in the alleged occurrence. On being apprehended, the confessional statement of co-accused 'Ahmad Hussain' was recorded by police and he disclosed the name of the co-accused 'Ramesh Kumar @ Nanki' and 'Manish Kumar @ Prince' as their associates but did not take the name of the informant/respondent no. 2. She further submits that in fact while the informant/respondent no. 2 was in judicial custody in



connection with Patepur P.S. Case No. 169 of 2020, his confessional statement was recorded by the police, implicating him in the present crime and thereafter, he has been remanded on 25.01.2022. She next submits that save and except her self confession, there is no material against the appellant.

On the other hand, learned Spl. PP for the State vehemently opposes the bail application and submits that the appellant is found involve in four other criminal cases and he appears to be habitual offender.

Regard being had to the submissions made on behalf of the parties and considering the materials available on record especially the fact that the name of the appellant has transpired on his own confession and save and except his self confession, there is no material and moreover, the criminal antecedent of a person cannot be a sole ground to keep him behind the bar for an indefinite period, let the appellant be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge Scheduled Caste/Scheduled Tribe, Vaishali at Hajipur in connection with Patepur P.S. Case No. 117 of 2020, subject to the condition that one of the bailors will be the close relative of the appellant with further conditions which



are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the appellant and in case, at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the appellant. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

Accordingly, the impugned order dated 06.04.2022 is hereby set aside and the present bail stands allowed.

(Harish Kumar, J)

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