

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4257 of 2021**

Arising Out of PS. Case No.-31 Year-2020 Thana- MAIGRA District- Gaya

=====

UMESH YADAV Son of Prayag Yadav Resident of Village - Harni , P.S.-
Maigra, Distt.- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Savita Devi Late Ram Dayal Rajak Resident of Village-Harni, P.S.-Maigra,
District-Gaya

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Krishna Prasad Singh, Sr. Adv.
Md. Javed Jafar Khan, Adv.
For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 13-04-2022 Heard Mr.Krishna Prasad Singh, learned senior counsel
for the appellant assisted by Mr.Javed Jafar Khan, learned
Advocate and Mr. Binay Krishna, learned Special Public
Prosecutor for the State.

Vide order dated 19.01.2022, notice was directed to be
issued upon the respondent no.2 but as per office notes, the
respondent no.2 refused to take the notice. As such, it is a valid
service of notice. Accordingly, this appeal is being heard in
absence of any representation on behalf of the respondent no.2.

This is an appeal under section 14(A)(2) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act,
2015 (hereinafter in short referred to as the 'SC/ST Act') against



the refusal of prayer for bail vide order dated 22.12.2020, passed by learned Executive Special Judge, SC/ST Act, Gaya, in connection with Maigra P.S. Case No.31/2020, registered under sections 302, 120(B), 148, 307 of the IPC, section 27 of the Arms Act and section 3(1)(r)(s) of the SC/ST Act.

Prosecution case in short is that the accused persons including the appellant having pistol in their hand fired upon the deceased Sohan Yadav, due to which, the husband of the informant, sitting next to Sohan Yadav, also received injury. It is alleged that murder was committed due to political and business rivalry, as the deceased was running a brick-kiln and was to contest the election of Mukhiya.

It is submitted by learned senior counsel for the appellant that no such occurrence as alleged has ever taken place. Appellant has been falsely implicated in the case due to dirty village politics. There is general and omnibus allegation against all the accused persons to fire upon the deceased. There is inordinate delay in lodging the FIR without explanation of such delay. The appellant has been languishing in custody since 31.08.2020. Several similarly situated co-accused has been granted bail vide order dated 08.07.2021 passed in Cr. Appeal (SJ) No.1653 of 2021 and Cr. Appeal (SJ) No.1781 of 2021,



vide order dated 24.08.2021 passed in Cr.Appeal (SJ) No.1981 of 2021 and Cr. Appeal (SJ) No.2102 of 2021 by co-ordinate Bench of this Court and one of the co-accused has been granted bail vide order dated 06.07.2021, passed in Cr. Appeal (SJ) No.1357/2021.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstance of the case, since similarly situated co-accused have been granted bail, the above named appellant is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST Act, Gaya, in connection with Maigra P.S. Case No.31/2020, subject to the following conditions:

(1) One of the bailors will be own close relative of the appellant who will give on affidavit genealogy as to how he is relative to appellant. The bailor will also undertake to inform the court if there is any change in the address of the appellant.

(2) The bailor shall also state on affidavit that he will inform the court concerned if the appellant is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.



(3) The appellant shall remain physically present in the court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(4) The appellant shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(5) The appellant shall appear before the Police Station of his local area in the first week of each month till the disposal of the present case.

The impugned order is set aside and the appeal is allowed.

(Anjani Kumar Sharan, J)

pallavi/-

U		T	
---	--	---	--

