

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4426 of 2021**

Arising Out of PS. Case No.-197 Year-2019 Thana- TARARI District- Bhojpur

Sunil Yadav, S/o Hiralal Yadav, Resident of Village- Rajpur, P.S. - Imadpur,
District- Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Santosh Kumar, son of Jhari Ram, resident of village- Bihta, P.S.- Imadpur,
District- Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ravindra Kumar, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

8 29-09-2022 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 Mr. Ravindra Kumar, learned counsel appearing on behalf of the appellant and learned Spl. PP for the State.

The present appeal under Section 14(A) (2) of the Scheduled Caste/Scheduled Tribe, Prevention of Atrocities Act, (hereinafter referred to as 'SC/ST Act') has been preferred against the order dated 02.09.2021 passed by learned 1st Additional Sessions Judge, Bhojpur at Ara in connection with SC/ST G.R. case no. 68 of 2021, arising out of Tarari P.S. case



no. 197 of 2019 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Sections 3(i)(r) (s)/3 (2)(va) of the SC/ST Act whereby the prayer for grant of regular bail of the appellant has been rejected.

The prosecution case is based on the written report alleging therein that on 15.10.2019, at about 7.00 A.M., while the informant along with his father was sitting at a tea stall for having tea, in the meantime, accused persons, namely, Makhan yadav, Rinku Yadav, Kamlesh Yadav, Sunil Yadav (appellant), Surendra Yadav and Jhamu Yadav armed with pistols came there on two motorcycles. It is further alleged that one of the co-accused Makhan Yadav instigated and abused the informant and his father and thereafter all of them started indiscriminate firing and later on co-accused Makhan Yadav, Rinku Yadav and Sunil Yadav caught hold of the informant's father and shot at him from point blank range, due to which he succumbed to injuries.

Learned counsel appearing on behalf of the appellant submits that there is general and ominous allegation and no specific role has been attributed against the appellant. He has fairly drawn the attention of this Court towards paragraph 24 of the case diary and submits that the police himself recorded his statement stating therein that the occurrence took place at 07:00



AM and when they came to know about the incidence they rushed to the place of occurrence, however, as there was some law and order problem because of the assemblage of the local people, the inquest report could not be prepared. He further submits that surprisingly the police station was just at the distance of 100 yards, however, none of their family members nor the informant had informed the police about the occurrence nor any FIR has been lodged and for the first time the information has been given to the police at about 02:30 P.M. which also shows that it is a case of deliberation and after thought. He also submits that other co-accused persons, namely Surendra Singh @ Surendra Yadav, Kamlesh Kumar Yadav @ Kamlesh Yadav and Jhanu Yadav @ Jhamu Yadav @ Brijnandan Kumar, have already been granted bail by the different learned co-ordinate Benches of this Court, which have been mentioned in paragraph no. 12 of the memo of appeal. He next submits that, in fact, there is no eyewitness to the alleged occurrence and this FIR has been instituted after preparation of inquest report which practice has been deprecated by the Hon'ble Supreme Court in various cases. He lastly submits that the appellant is in custody since 24.08.2021 and till date there is no substantive progress in the trial.



On the other hand, learned Spl. P.P. for the State opposes the bail application and submits that specific allegation of firing has been levelled against three persons, including the appellant, and the same has also been corroborated by the post-mortem report as in post-mortem, three firearm injuries have been found over the body of the deceased. He also submits that the appellant is also found involved in two other criminal cases.

Regard being had to the submission made on behalf of the parties and considering the specific nature of the accusation and the gravity of the offence as well as the materials available on record, this Court is not persuaded to enlarge the appellant on bail, for the present.

However, it is expected that the learned trial Court will take all necessary measures to expedite and conclude the trial as early as possible.

Accordingly, the present appeal stands dismissed.

(Harish Kumar, J)

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