

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4731 of 2021**

Arising Out of PS. Case No.-53 Year-2021 Thana- RAMPUR District- Gaya

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Mukesh Kumar, S/O Kishori Yadav, R/o Mohalla- Shahid Bhagat Singh Colony, P.S.- Rampur, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanjeev Kumar, S/O Vijay Prasad Tanti, R/o Mohalla- Gewal Bigha Devi Sthan, P.S.- Rampur, District- Gaya

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Krishna Pd. Singh, Sr. Advocate
		Mr. Bhaskar Shankar, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 28-07-2022

Heard learned counsel for the appellant and learned counsel 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.

The appeal has been preferred for setting aside the impugned order dated 27.10.2021 passed by learned Exclusive Special Judge, (SC/ST), Gaya in connection with Rampur P.S. Case No. 53 of 2021 registered for the offences under Sections 307, 386, 323, 341 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(1)(r)(s), 3(2V) of the SC/ST (POA) Act, by which prayer for bail of the appellant has been rejected.



As per prosecution case, the informant/respondent no.2 was getting the house of some person constructed when co-accused Shamu Yadav opened fired upon him in the background of his demand of extortion money of Rs. 5,00,000/- which the informant or the house-owner did not pay. The name of the appellant surfaced during investigation as he was named as accomplice in the confessional statement of co-accused Shamu Yadav.

The learned counsel for the appellant submits that the appellant was not named in the FIR and there is nothing on record to connect this appellant with the alleged occurrence or nothing further came up during investigation to show the involvement of this appellant in any manner. Learned counsel further submits that co-accused persons have been granted bail by Co-ordinate Benches of this Court vide order dated 07.07.2022 and 14.07.2022 passed in Cr. Appeal (SJ) No. 435 of 2022 and Cr. Appeal (SJ) No. 4705 of 2021, respectively. Other co-accused Jitendra Kumar Yadav and Raj Kumar have been granted privilege of anticipatory bail vide order dated 07.10.2021 passed in Cr. Appeal (SJ) No. 3402 of 2021. The case of the appellant stands on similar footing. The appellant is in custody since 18.09.2021 and is having criminal antecedents



and he is on bail in both cases.

Learned Special PP as well as learned counsel for the respondent no.2 vehemently opposes the contention made on behalf of the appellant. However, learned counsel concedes that similarly placed co-accused persons have been granted anticipatory bail/regular bail.

Having regard to the facts and circumstances and submissions made hereinabove and finding that there is nothing of substance against this appellant on record to connect him with the alleged offence except the confessional statement of the co-accused and further considering the submission of charge-sheet as well as the period of his custody, the appellant above named be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each of the satisfaction of the learned Exclusive Special Judge, SC/ST, Gaya in connection with Rampur P.S. Case No. 53 of 2021 subject to the following conditions:

- (i) The bail bond of the appellant will be accepted only after framing of charge, if not already framed.
- (ii) One of the bailors will be a close relative of the appellant.
- (iii) The appellant will remain present on each and every date fixed by the court below.



(iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.07.2022
Transmission Date	29.07.2022

