

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4681 of 2021**

Arising Out of PS. Case No.-48 Year-2020 Thana- BUDHUCHAK District- Bhagalpur

SONU YADAV Son of Dhruvendra Yadav Resident of Village - Rani Diyara,
P.S.- Budduchak, Distt.- Bhagalpur. Appellant/s

Versus

1. The State of Bihar
2. Rabishek Kumar@Tonu Mandal Late Dr.Shivnarayan Mandal Resident of
Village-Subbanagar, P.S-Budhuchak, District-Bhagalpur Respondent/s

Appearance :

For the Appellant/s : Mr.Ranjan Kumar Jha
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER**

3 08-09-2022 Heard learned counsel for the appellant and learned
Spl. P.P. for the State.

The appellant has filed the instant appeal against the order dated 01.11.2021 passed in by the learned 3rd Additional Sessions Judge cum Special Judge (SC/ST Act), Bhagalpur whereby the prayer for bail of the appellant in connection with Budduchak P.S. Case no. 48/2020, corresponding to Special SC/ST No. 220/2020 registered under sections 307, 504, 506, 120 (B) of the Indian Penal Code and Section 27 of the Arms Act and sections 3(i) (r)(s) 3 (2) (va) of the SC & ST (POA) Act was rejected.

As per prosecution case, the informant was sitting at the door of his house, the accused persons came there and hurled abuses upon the informant. It is further alleged that they



fired with intention to kill the informant but on account of hiding himself, bullet hit the hand of the informant. On having heard the sound of bullet, villagers assembled at the spot and the accused persons fled away after threatening that in the future he would be killed.

Learned counsel for the appellant submits that the appellant is quite innocent and has not committed any offence. He has falsely been implicated in this case due to dirty village politics. No such occurrence has taken place and the allegations are concocted. There is general and omnibus allegation against the appellant. From perusal of FIR, it appears that a vague allegation has been leveled against the appellant and others as it has not been specially alleged anywhere that who has fired upon the informant. The injury report indicates one fire arm injury on the right arm of the informant as mentioned in Annexure-2 of the bail petition. The injury is not on vital part of the body so in any view of the matter Section 307 will not attract against the appellant. There is no specific allegation of firing against the appellant. The appellant is in custody since 09.07.2021 and bears 05 criminal antecedents. Charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence. Learned counsel for the appellant



further submits that there is no allegation that the alleged occurrence has taken place in public, so alleged Section of SC/ST Act is not attracted. Co-accused, Rupesh Kumar has already been granted bail by the co-ordinate Bench of this Court vide Cr.Appeal (SJ) No.2386/2021 and the case of present petitioner stands on similar footing.

The learned Spl. PP for the State vehemently opposes the prayer for bail of the appellant and submits that the allegations are serious in nature and are supported by the witnesses.

Considering the facts and circumstances of the case, period of custody, similarly situated co-accused has already been granted bail, 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 01.11.2021 is hereby set aside and present appeal is allowed.

The appellant is directed to be enlarged on bail **after framing of charge** in connection with Budduchak P.S. Case no. 48/2020, corresponding to Special SC/ST No. 220/2020 on furnishing bail bond of Rs.10,000/ (Rupees Ten thousand) with



two sureties of the like amount each to the satisfaction of the learned 3rd Additional Sessions Judge cum Special Judge (SC/ST Act), Bhagalpur 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) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) If the appellant tampers 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)

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