

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4943 of 2021

Arising Out of PS. Case No.-209 Year-2020 Thana- AANDAR District- Siwan

Md. Nausher Ali @ Navsher Ali @ Nausher Ali S/o Mofil Miyan Resident of
Village - Gay Ghat, P.S. - Andar, District - Siwan.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Satyendra Rai

For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

6 30-11-2022 Heard Ld. counsel for the appellant and Ld. Special
Public Prosecutor for the State.

This criminal appeal has been filed to enlarge the appellant on bail, impugning the order dated 20.11.2021, passed by the Ld. Additional Sessions Judge 1st cum Special Judge, Siwan, arising out of Andar P.S. Case No. 209 of 2020, whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is that one Tais Ali and his associates demanded ransom from the informant, Kanhaiya Sah and on refusal they started firing with a country-made pistol at the informant. It is further alleged that one Jitendra Sah, cousin of the



informant has also sustained severe injury when he came for rescue.

The learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that similarly situated co-accused, Md. Azaharuddin Ali has already been enlarged on bail vide Order dated 24.08.2022 passed by co-ordinate Bench of this Court in Cr. Misc. No. 1216 of 2022.

The appellant has been languishing in jail since 18.12.2020.

It is also stated in paragraph no. 2 of the petition that the appellant has not moved earlier before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the appellant has no criminal antecedent.

However, the Ld. Special Public Prosecutor for the State and Ld. Counsel for the informant vehemently opposes the prayer of the appellant for bail.

Considering the aforesaid facts and circumstances, the appeal is allowed, setting aside the impugned order



dated 20.11.2021, passed by the Ld. Additional Sessions Judge-1st cum Special Judge, Siwan, and directing the appellant to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Ld. Addl. Sessions Judge-1st cum Special Judge, Siwan in connection with Andar P.S. Case No. 209 of 2020 on the following conditions:

(i) The appellant will make himself available for interrogation by a police officer/court as and when required.

(ii) The appellant will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The appellant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the court



below that the appellant has any criminal antecedent, the learned court below shall cancel the bail bond of the appellant after hearing him and getting satisfied that the appellant has concealed his criminal antecedent despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the appellant.

The appeal stands allowed accordingly.

The learned counsel for the appellant is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

(Jitendra Kumar, J)

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