

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.541 of 2023**

Arising Out of PS. Case No.-136 Year-2020 Thana- MADHUBANI TOWN District-
Madhubani

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KHURKHUR MISHRA @ JAGANNATH MISHRA @ JAGAR NATH
MISHRA, Male, aged 45 years, Son of Fekan Mishra @ Phekan Mishra @
Mahendra Mishra, Resident of Village- Sundarpur Bhithi, P.S.- Town
Madhubani, District- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Soman Paswan, male aged about 55 years, Son of Late Rebi Paswan
Resident of Village- Sundarpur Bhithi, P.S.- Town Madhubani, District-
Madhubani

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Sanjay Kumar Jha, Advocate
For the Respondent/s : Mr.Usha Kumari 1, Special P.P.

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**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER**

4 28-04-2023 Heard the parties.

2. The instant criminal appeal has been filed under
Section 14(A)(2) of the Scheduled Castes and the Scheduled
Tribes (Prevention of Atrocities) Act, against the order dated
12.01.2023 passed by the learned Additional Sessions Judge, 1st
-cum- Special Judge, SC/ST Act, Madhubani in connection with
Town Madhubani P.S. Case No.136/2020 registered for the
offences punishable under Sections 341, 323, 324, 307, 302,
379, 427, 452, 504, 506/34 of the Indian Penal Code, Section 27
of the Arms Act and Sections 3(1)(r),3(2) (va) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act by



which the appellant's prayer for bail was rejected.

3. Though the service report of the notices sent to respondent no.2 through both modes has not been received but as per learned Special P.P., information has been given to respondent no.2 through the Superintendent of Police concerned in compliance with the direction given by this Court on 20.04.2023.

4. The main submissions advanced by learned counsel for the appellant are that the appellant is stated to be member of the mob and he is not alleged to be involved as one of the assailants and as per the allegations levelled in the FIR, co-accused persons, namely, Arun Kumar Jha and Kamaldeo Thakur @ Kamalbhab Thakur are stated to be the main assailants who fired at the victims and there is no specific allegation against the appellant and altogether 13 persons have been named in the FIR and more than 30 persons have been mentioned in the FIR as unknown persons and the main assailants, namely, Arun Kumar Jha and Kamaldeo Thakur @ Kamalbhab Thakur have been granted bail by different co-ordinate Benches of this Court vide orders passed in Criminal Appeal (SJ) Nos.1948 of 2020 and 509 of 2021 respectively and some other co-accused persons, namely, Mantu Jha @ Narendra



Jha, Rajiv Kumar Jha and Manish Kumar Jha, Akhilesh Singh @ Akhileshwar Prasad Singh have also been granted bail vide orders passed in Criminal Appeal (SJ) Nos. 334 of 2021, 1844 of 2021 and 2416 of 2021 respectively and case of this appellant is completely identical with co-accused persons, namely, Mantu Jha @ Narendra Jha, Rajiv Kumar Jha, Manish Kumar Jha and Akhilesh Singh @ Akhileshwar Prasad Singh and is on better footing from co-accused Arun Kumar Jha and Kamaldeo Thakur @ Kamalbhab Thakur and against the appellant, there is criminal antecedent of one case in which he is on bail and he has been languishing in jail since 02.01.2023.

4. Learned Special PP appearing for the State has opposed the bail prayer of the appellant.

5. Considering the above submissions and mainly the facts that thirteen persons have been named in the FIR and more than 30 unknown persons are stated to be involved in the alleged occurrence and against the appellant, there is no specific allegation and main allegation of firing is against co-accused Arun Kumar Jha and Kamaldeo Thakur @ Kamalbhab Thakur who are on bail, as mentioned-above, and some other co-accused persons, whose case is completely identical to the present appellant, as mentioned-above, are also on bail, in the



opinion of this Court, appellant deserves to the privilege of bail. Accordingly, the order impugned is hereby set aside and the appellant is directed to be released on bail in connection with Town Madhubani P.S. Case No.136/2020 on furnishing of bail bond of Rs.10,000/- (Ten Thousand) with two sureties of like amount each to the satisfaction of the Court concerned.

6. In the result, the instant appeal stands allowed.

(Shailendra Singh, J)

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