

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.539 of 2022**

Arising Out of PS. Case No.-235 Year-2021 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

=====

RAHUL MENTAL @ RAHUL KUMAR Son of Kamlesh Yadav Resident of
Village- Sheodhar Bigha, P.S.- Bodhgaya, District- Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Priya Ranjan
For the Respondent/s : Mr.Sadanand Paswan

=====

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

17 19-05-2023 Heard learned counsel for the appellant and the
learned counsel for the informant.

This appeal has been preferred on behalf of the
appellant under Section 14-A (2) of the SC & ST (Prevention of
Atrocities) Act for setting aside the order dated 12.01.2022 in
connection with Magadh Medical P.S.Case No. 235 of 2021,
registered for the offences punishable under Sections 302 and
120(B)/34 of the Indian Penal Code, Section 27 of the Arms Act
and Section 3(2)(v) of the SC and ST (Prevention of Atrocities)
Act, whereby the prayer for bail of the appellant has been
rejected.

The informant of this case is Vijay Vishwakarma. He
mentioned in the FIR that on 03.09.2021 at about 6-6.30 p.m.



his son Raja Kumar 18 years old with his friend Sintu Kumar was going and when they reached near a bridge, co-accused Gore Babu, Aman Paswan, Bigesh Yadav and Rahul Mental (petitioner) were already sitting there. Co-accused Gore Babu called his son and after catching hold of his hand, he took him off the road where co-accused Aman Paswan caught hold of the deceased (son of the informant) and Gore Babu fired shot with a pistol on his person. Thereafter, they fled away therefrom. During the course of treatment, his son died.

The learned counsel for the appellant has submitted that the appellant is innocent and has falsely been implicated in this case. He has submitted further that there is no specific overt act against the appellant. The FIR itself shows that the specific allegation to fire shot at the deceased is on co-accused Gore Babu and the allegation of catching hold of the hands of the deceased, was on co-accused Aman Paswan. He has submitted further that the case of the appellant is on better footing than Aman Paswan, who has been granted bail by a coordinate Bench of this Court in Criminal Appeal (SJ) No. 599 of 2022.

On the other hand, the learned counsel for the informant has opposed the prayer for bail and submitted that the appellant is also named in the FIR. Though there is no specific



overt act in the FIR against him but the witnesses have named the present appellant. He has submitted further that on 03.02.2023, one witness was present in the dock and in the court room, this appellant had threatened him. He has also submitted that the appellant had criminal antecedent, but it was concealed in paragraph no. 3 of the bail petition.

Co-accused Aman Kumar @ Aman Paswan, against whom there is allegation of catching hold of the deceased, has been granted bail by a coordinate Bench of this Court in Criminal Appeal (SJ) No. 599 of 2022.

Considering the facts and circumstances, the appeal is allowed and the impugned order dated 12.01.2022 is set aside. Accordingly, the appellant, above-named, shall be released on bail on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Gaya in I.A No. 02 of 2021 in connection with of Magadh Medical P.S.Case No. 235 of 2021, subject to the following conditions:-

The learned trial court shall conduct an enquiry and if it is found that the appellant had threatened the witness, whose deposition was being recorded on 03.02.2023, his bail bond shall not be accepted.



In paragraph nos. 29 and 30 of the case diary, the witnesses Jitendra Kumar and Deepak Kumar have stated that hearing the sound of fire-arm, they rushed there, where the injured was writhing. He was brought to the hospital and before his death, he told that co-accused Anish Kumar @ Gore Babu, Aman Kumar, Bigesh Yadav and Rahul Yadav @ Rahul Mental had killed him and thereafter, he became unconscious. The witnesses made videograph of the dying declaration of the deceased which has been given to the I.O. and is available with the case diary.

The learned court below shall verify the statement in paragraph nos. 29 and 30 of the case diary and if it is confirmed in the video clip that the deceased had named the appellant, his bail bond shall not be accepted.

(Nawneet Kumar Pandey, J)

HR/-

U		T	
---	--	---	--

