

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1638 of 2023

Arising Out of PS. Case No.-254 Year-2020 Thana- UJIYARPUR District- Samastipur

DILEEP RAI @ DEEPAK KUMAR YADAV @ DILEEP RAY Son of
Yogendra Prasad Yadav @ Yogendra Yadav @ Yogendra Ray @ Khesari Lal
Yadav R/V- Mahisari,PS- Ujiyarpur Dist- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Sushila Devi Wife of Mukesh Paswan R/V- Mahisari,PS- Ujiyarpur Dist- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rabindra Kumar Priyadarshi, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 23-06-2023 Heard learned counsel for the appellant, learned counsel for the respondent no.2 and learned Special Public Prosecutor for the State.

This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for regular bail by order dated 02.03.2023 passed by the learned Court of Special Judge, SC/ST (Prevention of Atrocities) Act, Samastipur in connection with Ujiyarpur P.S. Case No. 254 of 2020 registered under Sections 120(B), 302, 307, 323, 34, 452, 504, 506 of the Indian Penal Code and Sections 3(1)(r)(s), 3(2)(va) of SC/ST Act, 1989 and Section 27 of the Arms Act.



As per prosecution case, in brief is that at 01:10 O'clock in night the informant was sleeping at her home. Due to previous enmity accused Dilip Ray alongwith F.I.R. named accused persons entered into the house of informant and forcibly carried informant's father-in-law namely, Virendra Paswan (deceased) from his house and started to abuse and assaulted him. Informant went to save deceased but accused persons also assaulted her. Co-accused Chhotu Ray with pistol in his hand fired on deceased whereby, he received bullet injury on chest. Hearing the sound of pistol shot, informant's brother-in-law namely, Rupesh Paswan came but co-accused Sony Ray with pistol in his hand fired on her brother-in-law whereby, he received injury. After that nearby people gathered and accused persons ran away and thereafter, with the help of villagers, injured were carried to Hospital where deceased has died.

Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. He further submits that bare perusal of the F.I.R. it transpired that there is no specific allegation of any assault or overt-act is attributed against the appellant and rather there is specific allegation of firing is attributed against co-accused namely, Chhotu Ray and Sony Ray



and at best the appellant is member of mob having unlawful assembly. He further submits that similarly situated, co-accused, namely, Anis Singh @ Anesh @ Anesh Kumar has been granted bail by co-ordinate Bench of this Hon'ble Court vide order dated 10.08.2021 passed in Cr. App.(SJ) No. 2510 of 2021, another co-accused namely, Arun Singh @ Arun Kumar has been granted bail by co-ordinate Bench of this Hon'ble Court vide order dated 01.03.2021 passed in Cr. App.(SJ) No. 423 of 2021 and co-accused namely, Shranjit Singh @ Deepak has been granted bail by co-ordinate Bench of this Hon'ble Court vide order dated 08.07.2021 passed in Cr. App.(SJ) No. 152 of 2021. He further submits that the police, after investigation, submitted the charge sheet against the appellant and the appellant is in custody since 10.01.2023.

The learned counsel appearing on behalf of the Respondent No.2 as well as learned Special Public Prosecutor have vehemently opposed the prayer for bail of the appellant.

Considering the aforesaid facts and circumstances, let the appellant, above named, 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 the learned Court of Special Judge, SC/ST (POA), Samastipur in connection with



Ujiyarpur P.S. Case No. 254 of 2020, subject to the following conditions:-

1. Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. 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.

3. And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

Accordingly, the impugned order dated 02.03.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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