

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1723 of 2023**

Arising Out of PS. Case No.-132 Year-2021 Thana- KATRA District- Muzaffarpur

GAURAV KUMAR THAKUR Son of Sunil Thakur @ Munna Thakur
Resident of village-Saidpur, P.S.-Katra, Dist.-Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar PATNA
2. SAROJ KUMAR PASWAN @ SAROJ KUMAR Son of Baleshwar Paswan
Resident of village-Yajuar West, P.S.-Katra, Dist.-Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vaidehi Raman Prasad Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 07-07-2023 Heard learned counsel appearing for the appellant
and learned Special Public Prosecutor for the State.

As per service report, notices through ordinary process has been validly served upon respondent no. 2, no one appears on behalf of the respondent no. 2 when the matter is called.

This is an appeal under Sections 14(A)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for regular bail vide order dated 06.02.2023 passed by the learned I/C Additional District & Sessions Judge-I-cum-Special Judge, SC/ST Act, Muzaffarpur



in connection with Katra P.S. Case No. 132 of 2021, F.I.R. dated 28.05.2021 registered under Sections 341, 448, 452, 323, 324, 325, 326, 307, 353, 120(B), 504, 506/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(1)(r)(s) and 3(2)(v)(a) of the SC/ST Act.

Prosecution case in brief, is that, Sawan Thakur and Roushan Thakur are dominating person of the village of informant who was indulged in illegal business of liquor and when Katra P.S. caught the loaded truck of liquor then their associates used to say in the village that informant have to caught the truck of Sawan Thakur and Roushan Thakur. On 26.05.2021 both accused Sawan Thakur and Roushan Thakur boarded on Apache motorcycle came at his door and started indiscriminate firing and fled away towards Kachachari Chowk. The informant concealed himself whereas his brother sustained grievous bullet injury on thigh and stomach.

Learned counsel for the appellant submits that the appellant is innocent and he has been falsely implicated in the present case on the basis of admitted land dispute. He further submits that from a bare perusal of the F.I.R. it transpires that there is no allegation of any assault or overt act attributed against the appellant rather there is general and omnibus



allegation that the appellant and co-accused have conspired from the present occurrence. He further submits that except the aforesaid and paragraph-39 of the case diary that the appellant has confessed the complicity in the alleged crime. He further submits that except the confessional statement of the appellant, no other cogent material has come during investigation against the appellant to suggest the involvement of the appellant in the present occurrence. He further submits that co-accused person namely Navin Thakur has been granted anticipatory bail by a Coordinate Bench of this Court vide order dated 08.08.2022 passed in Cr. App (SJ) No. 4390 of 2021, another co-accused person namely Chulhai Mandal has been granted bail by a Coordinate Bench of this Court vide order dated 08.02.2022 passed in Cr. App (SJ) No. 4588 of 2021, another co-accused person namely Vikram Paswan @ Tipu Paswan has been granted bail by a Coordinate Bench of this Court vide order dated 28.07.2022 passed in Cr. App (SJ) No. 473 of 2022 and the police after investigation submitted chargesheet against the appellant and the appellant is in custody since 22.07.2021.

Learned Special Public Prosecutor for the State has vehemently opposed the prayer for bail of the appellant and submits that the appellant carries 9 more cases other than the



present one but fairly submits on the basis of petition that the appellant is on bail in eight cases.

Considering the facts and circumstances of the case and the period of custody, 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 learned I/C Additional District & Sessions Judge 1-cum-Special Judge SC/ST Act, Muzaffarpur in connection with Katra P.S. Case No. 132 of 2021, with 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 witness, 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 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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