

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1989 of 2022

Arising Out of PS. Case No.-319 Year-2021 Thana- KOILWAR District- Bhojpur

Mithilesh Paswan, Son of Suresh Paswan, Resident of Village - Kuber Chak
Dhandiha, P.S.- Koilwar, Distt.- Bhojpur at Ara.

... .. Appellant

Versus

1. The State of Bihar
2. Jitendra Kumar Chaudhary, Aged about : 34 years, S/o Late. Naresh
Chaudhary, R/o Village- Sakardih, P.S.-Koilwar, District-Bhojpur.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Arbind Kumar Singh
For the Respondent No.1:		Mr. Binay Krishna, Spl. PP
For the Respondent No.2:		Mr. Ataul Haque, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 02-03-2023 Heard Ld. counsel for the appellant, Ld. Special

Public Prosecutor for the State and Ld. Counse for the

informant/Respondent No.2.

This criminal appeal has been filed to enlarge the
appellant on bail, impugning the order dated 28.03.2022,
passed by Ld. 1St Additional Sessions Judge-cum-Special
Judge, SC/ST Act, Bhojpur, in B.P. No. 1596 of 2022 in
connection with Koilwar P.S. Case No. 319 of 2022, registered
for the offences punishable under Sections 302 and 34 of
the Indian Penal Code, 27 of the Arms Act and 3(2)(v) of the SC/ST
Act and later on Section 120(B) and 307 of the Indian Penal Code was



added, whereby bail has been denied to the appellant.

The prosecution case as emerges from the FIR is that on 14.07.2021, brother of the informant/Raju Chaudhary and one Manraj were sleeping in the godown. In the mean time, two persons, with covered face, entered the godown and started firing indiscriminately at the victims. As a consequence, both the victims got injured and were admitted to hospital. However, the brother of the informant succumbed to the injury.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that the appellant is not named in the FIR and his name has transpired in the confessional statement of the co-accused/Satya Prakash Mahto, who has already been enlarged on bail by a co-ordinate Bench of this Court. Moreover, on the alleged date of occurrence, the appellant was in jail. He also submits that investigation in this case is complete and charge-sheet has already been submitted.

He further submits that the appellant has been



languishing in jail since 04.02.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellant has earlier been made accused in six other cases.

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

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

Considering the aforesaid facts and circumstances, **the appeal is allowed**, setting aside the impugned order dated 28.03.2022, passed by Ld. 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Bhojpur, and directing the appellant to be enlarged 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 Ld. 1st Additional District and Sessions Judge-cum-Special Judge, SC/ST (P.O.A) Act, Bhojpur, at Ara in connection with Koilwar P.S. Case No. 319 of 2022, 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 get hampered 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 trial court that the appellant has criminal antecedents other than the disclosed one, Ld. trial court shall cancel the bail bonds of the appellant after hearing him and getting satisfied that the appellant has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the trial court that statement regarding previous bail appeal is wrong,



Ld. trial court shall cancel the bail bonds of the appellant.

Ld. 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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