

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2341 of 2022

Arising Out of PS. Case No.-178 Year-2021 Thana- MAGADH UNIVERSITY District- Gaya

ANIL YADAV S/O CHALITAR YADAV Resident of village- Bholabigha
P.S.- Magadh University, District Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sharavan Kumar Ramadhar Munshi Resident of Village-
Bholabighabhuntoli, P.S.-Magadh University, District- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ashok Kumar
For the Respondent No.-1:		Mr.Sadanand Paswan
For the Respondent No.-2:		Mr. Ramprawesh Kr.

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 25-01-2023 Heard Ld. counsel for the appellant, Ld. Special

Public Prosecutor for the State and Ld. Counsel for the

Informant/Respondent No. 2.

This criminal appeal has been filed to enlarge the

appellant on bail, impugning the order dated 28.04.2022,

passed by Ld. Exclusive Special Judge SC/ST, Gaya in

connection with Magadh University P.S. Case No. 178 of

2021, registered for the offences punishable under Sections

147, 148, 149, 341, 323, 379, 354, 307 and 427 of the

Indian Penal Code and later on Section 302 of the Indian

Penal Code was also subsequently added and Sections 3(i)(r)



(s)w) and 3(2)(va) of the SC/ST Act, whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is that appellant along with his associates armed with *lathi*, *danda*, fire arms entered into the house of the informant and started assaulting the informant and his family members and they also threatened them of dire consequences.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that the allegation against the appellant and other co-accused is general and omnibus and there is no specific allegation against any accused in regard to assault and amongst the crowd, it is difficult to identify who caused injury. He also submits that investigation in this case is complete and charge-sheet has already been submitted but charge has not been framed till date.

He further submits that the appellant has been languishing in jail since 03.01.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellant has no criminal antecedents.



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 opposes the prayer of the appellant for bail.

Considering the aforesaid facts and circumstances, **this appeal is allowed**, setting aside the impugned order dated 28.04.2022, passed by Ld. Exclusive Special Judge SC/ST, Gaya, 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. Exclusive Special Judge SC/ST, Gaya in connection with Magadh University P.S. Case No. 178 of 2021, **after framing of charge, if not already framed**, 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 hamper 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 any criminal antecedents, the 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, the Ld. trial court shall cancel the bail bonds of the appellant.

However, Ld. Counsel for the petitioner informs that Trial Court is vacant and there will be delay in framing of charge. Hence, in view of the aforesaid statement, Ld.



District and Sessions Judge is directed to transfer the case to another running court.

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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