

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3036 of 2022**

Arising Out of PS. Case No.-5 Year-2019 Thana- DEEPNAGAR District- Nalanda

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PHOTO YADAV @ RAMESH KUMAR S/O KAILU YADAV @ KAILU
GOP Resident of village- Kako Bigha, P.S.- Deepnagar, District- Nalanda
(Bihar).

... .. Appellant/s

Versus

1. The State of Bihar
2. GOPAL KUMAR S/O SHRAVAN PASWAN Resident of village- Maghra,
Sarai, P.S.- Deepnagar, District- Nalanda.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Kishor Prasad, Advocate
For the Respondent/s : Mr. Binay Krishna, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 29-03-2023 Heard learned counsel for the appellant, learned APP
for the State and learned counsel for the respondent no.2.

The appellant has renewed his prayer for bail in a case registered under section 302 and other sections of the Indian Penal Code, section 27 of the Arms Act and sections 3(1)(r)(s) and 3(2)(v) of the S.C. and S.T. (Prevention of Atrocities) Act.

It is submitted by learned counsel appearing for the appellant that the earlier prayer for bail of the appellant was rejected vide orders dated 22.12.2020 and 1.12.2021. Lastly by order dated 22.6.2022, the application for bail was permitted to be withdrawn with liberty to renew his prayer for bail in the learned court below. It is further submitted that the appellant is



in custody since 20.1.2020. Inspite of the charge having been framed on 23.7.2022, the prosecution witnesses are not cooperating in the trial and no witness has been examined on behalf of the prosecution.

The prayer for bail is opposed by learned counsel appearing for the State as also learned counsel appearing for the respondent no.2. Learned counsel appearing for the respondent no.2 submits that the appellant is the sole assailant in the case. He submits that the witnesses will appear and depose on the dates fixed by learned trial court.

Having heard learned counsel for the parties and taking into consideration the nature of allegation against the appellant wherein he is described to be the assailant of the deceased, the Court is not inclined to enlarge the appellant on bail and the appeal is rejected.

However, from perusal of the report received from the learned trial Court as contained in letter no.409/2022 dated 10.10.2022 of the learned Special Judge, S.C./S.T.-cum-Additional District and Sessions Judge III, Nalanda at Biharsharif, it transpires that although charge was framed on 23.7.2022 and summons were issued against the chargesheet witnesses, no witness has turned up.



Learned counsel appearing for the respondent no.2 has not disputed the position that no witness has been examined on behalf of the prosecution.

In view of the categorical assertions on behalf of the respondent no.2 that he will examine his witnesses within a period of four months, liberty is granted to the appellant to renew his prayer for bail in case the trial does not conclude for no fault of the appellant, within a period of six months from the date of communication of this order.

(Partha Sarthy, J)

Saurabh/-

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