

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.3042 of 2022

Arising Out of PS. Case No.-64 Year-2019 Thana- IMADPUR District- Bhojpur

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Santosh Yadav Son Of Ram Raj Yadav R/O Village- Rajpur, P.S.- Imadpur,
District- Bhojpur, Ara

... ... Appellant/s

Versus

1. The State of Bihar
2. Anil Paswan Son Of Bhola Paswan R/O Village- Rajpur, P.S.- Imadpur,
District- Bhojpur, Ara

... ... Respondent/s

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with

CRIMINAL APPEAL (SJ) No. 3173 of 2022

Arising Out of PS. Case No.-64 Year-2019 Thana- IMADPUR District- Bhojpur

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Tinku Yadav Son Of Ambika Yadav R/O Village- Rajpur, P.S.- Imadpur,
District- Bhojpur

... ... Appellant/s

Versus

1. The State Of Bihar
2. Anil Paswan Son Of Bhola Paswan R/O Village- Rajpur, P.S.- Imadpur,
District- Bhojpur

... ... Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 3042 of 2022)

For the Appellant/s : Mr. Malti Kumari

For the Respondent No.1: Mr. Binay Krishna

For the Respondent No.2: None

(In CRIMINAL APPEAL (SJ) No. 3173 of 2022)

For the Appellant/s : Mr. Rakesh Singh

For the Respondent/s : Mr. Usha Kumari 1

For the Respondent No.2: None

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

3 12-01-2023 Notice has been served through registered post,

despite service of notice, nobody is present on behalf of the

informant/respondent no.2.

Heard Ld. counsel for the appellants and Ld. APP
for the State.

This criminal appeal has been filed to enlarge the
appellant on bail, impugning the order dated 26.07.2022,
passed by the Ld. 1st Addl. Sessions Judge-cum-Spl. Judge
SC/ST Act, Bhojpur at Ara, in connection with B.P. No. 4305
of 2022 arising out of SC/ST Case No. 72 of 2022 arising
out of Imadpur P.S. Case No. 64 of 2019, registered for the
offences punishable under Sections 41, 323, 307, 504, 452,
506 and 34 of the Indian Penal Code and 27 of the Arms



Act and Sections 3(i)(r)(s), 3(2) (Va) of the SC/ST (POA) Act, whereby bail has been denied to the appellant.

The prosecution story as emerges from the FIR is that on 03.09.2019 at about 8:00 PM when informant had gone for natural call near the Rahbaba temple in Village Rajpur , he saw that appellant and his associates shot fire at the informant's father, due to which he sustained injuries.

Ld. counsel for the appellant, namely, Tinku Yadav submits that the appellant is innocent and has falsely been implicated in this case. He further submits that no injury report has been brought on record by the Investigating Officer and only there is allegation of fire arm injury to the alleged victim but nature of injury is not mentioned.

Ld. counsel for the appellant, namely, Santosh Yadav submits that the appellant is innocent and has falsely been implicated in this case submitting that there is no direct allegation against the appellant in regard to causing injury and as per allegation he only member of the unlawful assembly but there is overt act alleged against him.

They further submit that the appellants namely,



Tinku Yadav and Santosh Yadav have been languishing in jail since 26.06.2022 and 23.12.2021 respectively.

It has also been stated in paragraph no. 3 of the appeal that the appellant has earlier been made accused in namely, Santosh Yadav has earlier been made accused in seven other cases whereas appellant, namely, Tinku Yadav has no criminal antecedents.

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

However, Ld. Special Public Prosecutor for the State vehemently opposes the prayer of the appellants for bail.

Considering the aforesaid facts and circumstances, **the appeal is allowed**, setting aside the impugned order dated 26.07.2022, passed by Ld. 1st Addl. Sessions Judge-cum-Spl. Judge SC/ST Act, Bhojpur at Ara, and directing the appellants to be released on bail on their furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of



Ld. 1st Addl. Sessions Judge-cum-Spl. Judge SC/ST Act, Bhojpur at Ara in connection with B.P. No. 4305 of 2022 arising out of SC/ST Case No. 72 of 2022 arising out of Imadpur P.S. Case No. 64 of 2019 on the following conditions:

(i) The appellants will make themselves available for interrogation by a police officer/court as and when required.

(ii) The appellants will undertake that investigation/trial will not hamper on account of their absence or non-cooperation. They must be available to the police or the court whenever their presence is required.

(iii) The appellants 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 appellants have criminal antecedents other than the disclosed one, Ld. trial court shall cancel the bail



bonds of the appellants after hearing them and getting satisfied that the appellants have concealed their criminal antecedents despite their 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 appellants. Ld. counsel for the appellants 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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