

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3505 of 2022

Arising Out of PS. Case No.-294 Year-2020 Thana- LAKHISARAI District- Lakhisarai

1. RAJ KUMAR YADAV Son of Late Subelal Yadav Resident of Village - Phulaia (Fulaiya), P.S.- Lakhisarai (Ramgarh Chowk), District - Lakhisarai.
2. Kamlesh Yadav Son of Late Chando Yadav Resident of Village - Phulaia (Fulaiya), P.S.- Lakhisarai (Ramgarh Chowk), District - Lakhisarai.
3. Rupesh Kumar Yadav @ Rupesh Kumar Rajan Son of Umesh Yadav Resident of Village - Phulaia (Fulaiya), P.S.- Lakhisarai (Ramgarh Chowk), District - Lakhisarai.
4. Umesh Yadav Son of Late Dukhi Yadav Resident of Village - Phulaia (Fulaiya), P.S.- Lakhisarai (Ramgarh Chowk), District - Lakhisarai.
5. Pramod Yadav Son of Dashrath Yadav Resident of Village - Phulaia (Fulaiya), P.S.- Lakhisarai (Ramgarh Chowk), District - Lakhisarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Bimal Paswan Son of Late Bajo Paswan Resident of Village - Phulaiya, P.S.- Lakhisarai (Ramgarh Chowk), District - Lakhisarai.

... .. Respondent/s

Appearance :

For the Appellant/s	: Mr. Bharat Lal
For the Respondent No-1:	Mr. Sadanand Paswan
For the Respondent No-2:	Mr. Rajnish Chandra (Adv)

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 18-01-2023 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 15.09.2022, passed by Ld. 1st Additional Sessions Judge Cum Special Judge SC/ST Act, Lakhisarai, in connection with Lakhisarai (Ramgarh Chowk) P.S. Case No. 294 of 2020, registered for



the offences punishable under Sections 147, 148, 149, 302 and 120(B) of the Indian Penal Code, Section 27 of the Arms Act and Sections 3 (2) (v) of the SC/ST Act, whereby bail has been denied to the appellant.

The prosecution story as emerges from the FIR is that the appellants and their associates fired gun shot on the back side of the head of the informant's son due to which he died.

Ld. counsel for the appellants submits that the appellants are innocent and have falsely been implicated in this case. He further submits that the appellants were not the assailants and at best they can be said to be the member of the unlawful assembly. He also submits that other co-accused person, namely, Tarun Yadav, Rahul Yadav and Parshuram Yadav have already been enlarged on bail by different co-ordinate Benches of this Court vide orders dated 23.02.2021 and 30.06.2021 passed in Cr. Appeal (SJ) No. 568 of 2021 and Cr. Appeal (SJ) No. 2482 of 2021, respectively.

He further submits that the appellants have been



languishing in jail since 04.08.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellant nos. 1 and 2, namely, Raj Kumar Yadav and Kamlesh Yadav have earlier been made accused in two other cases, appellant nos. 4 and 5, namely, Umesh Yadav and Pramod Yadav have earlier been made accused in one other cases whereas appellant no. 3, namely, Rupesh Kumar 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.

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

Considering the aforesaid facts and circumstances, **this appeal is allowed**, setting aside the impugned order dated 15.09.2022, passed by Ld. 1st Additional Sessions Judge Cum Special Judge SC/ST Act, Lakhisarai, 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 Additional Sessions Judge Cum Special Judge SC/ST Act, Lakhisarai in connection with Lakhisarai (Ramgarh Chowk) P.S. Case No. 294 of 2020, **after framing of charge, if not already framed** 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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