

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.4183 of 2022**

Arising Out of PS. Case No.-136 Year-2020 Thana- MADHUBANI TOWN District-  
Madhubani

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Santosh Kumar Jha @ Santosh Jha Son of Ashok Jha R/V- Sundarpur Bhithi,  
P.S- Town Madhubani Dist- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Soman Paswan Son of Late Devi Paswan R/V- Sundarpur Bhiththi, Ward  
No. 6, P.S- Town Dist- Madhubani

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Ratanakar Jha, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA  
ORAL ORDER**

7      11-08-2023                      Heard learned counsel for the appellant as well as  
learned Spl.P.P. for the State.

2. From perusal of the service report, it is evident that  
the notice issued to Respondent No. 2 is validly served.

3. This is an appeal under Sections 14(A)(2) against  
refusal of the prayer for regular bail by order dated 11.11.2022  
passed by the learned Additional Sessions Judge 1<sup>st</sup> cum Special  
Judge, SC/ST Act, Madhubani in connection with Madhubani  
Town P.S. Case No. 136 of 2020, F.I.R. dated 23.12.2019  
registered under Sections 341, 323, 324, 307, 302, 379, 427,  
452, 504, 506 of the Indian Penal Code, Section 27 of the Arms  
Act and Sections 3(i) (r) 3(ii) (va) of the Scheduled Castes and



Scheduled Tribes (POA) Act.

4. The prosecution case is that the co-accused, Arun Kumar Jha was attempting to make constructions on the lands, which, the informant claims, have been allotted to them by means of Purcha. Upon resistance being made by the informant, the appellant and others have indulged in assault by various means. Specific firearm injury is attributed against the co-accused, Arun Kumar Jha, to have been caused on the grandson of the informant and another person, namely, Deepak Paswan.

5. Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case due to admitted land dispute between the parties. He further submits that from perusal of the F.I.R it appears that there is land dispute between the co-accused, Arun Kumar Jha and the family members of the respondent no. 2 and the appellant being the family member of Arun Kumar Jha has falsely been implicated in this case. He further submits that a case was lodged from the appellant's side bearing Madhubani Town P.S. Case No. 477 of 2019 in which the respondent no. 2 was an accused. He further submits that there is direct and specific allegation against the co-accused, Arun Kumar Jha who fired upon the victim. He further submits



that the similarly situated co-accused, namely, Arun Kumar Jha has been granted bail by the Co-ordinate Bench of this Court vide order dated 16.03.2021 passed in Cr. Appeal (SJ) No. 1948 of 2020, co-accused, namely, Mantu Jha @ Narendra Jha has been granted bail by the Co-ordinate Bench of this Court vide order dated 09.03.2021 passed in Cr. Appeal (SJ) No. 334 of 2021 and co-accused, namely, Rajiv Kumar Jha and Manish Kumar Jha have been granted bail by the Co-ordinate Bench of this Court vide order dated 05.07.2021 passed in Cr. Appeal (SJ) No. 1844 of 2021. The appellant is in custody since 01.11.2022.

6. Vide order dated 16.05.2023 the appellant has been released on provisional bail for a period of 2 months and after the expiry of 2 months, he had surrendered on 31.07.2023 in the learned Court below.

7. Learned Special Public Prosecutor for the State has vehemently opposed the prayer for bail of the appellant and submits that the appellant has actively participated in the present crime in question but fairly submits that the main assailant, namely, Arun Kumar Jha has been granted bail by the Co-ordinate Bench of this Court and other accused persons have also been granted bail by different Co-ordinate Bench of this Court.



8. Considering the facts and circumstances of the case, let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Court Additional Sessions Judge 1<sup>st</sup> cum Special Judge, SC/ST Act, Madhubani in connection with Madhubani Town P.S. Case No. 136 of 2020, with other following conditions:-

i. Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant have concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of



verification.

9. Accordingly, the impugned order is set aside and  
this appeal stands allowed.

**(Rajesh Kumar Verma, J)**

Vanisha/-

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