

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5152 of 2023

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

Kedar Yadav S/O Late Nanku Yadav Resident Of Village- Bhola Bigha,
Ganiyatand, P.S- Magadh University, Distt.- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Sharwan Kumar S/O Ramadhar Manjhi R/O Villag- Bhola Bigha, Bhun Toli,
P.S- Magadh University, Distt.- Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ashok Kumar, Advocate
For the State	:	Mr. Binay Krishna, Special PP
For the Respondent No.2:	:	Mr.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-12-2023

Heard learned counsel for the appellant, learned counsel for the informant/respondent no.2 as well as learned counsel for the State.

02. This is the third attempt of the appellant to seek bail from this Court, as his prayer for bail was earlier rejected vide order dated 14.07.2022 passed in Criminal Appeal (SJ) No. 529 of 2022 and thereafter Criminal Appeal (SJ) No. 1857 of 2023 preferred by the appellant was dismissed as withdrawn vide order dated 05.07.2023.

03. The present appeal has been preferred by the appellant under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against



the refusal of prayer for bail by order dated 06.10.2023 passed by learned Exclusive Special Judge, SC/ST (Prevention of Atrocities Act), Gaya, in connection with Magadh University P.S. Case No. 178 of 2021 registered for the alleged offences under Sections 147, 148, 149, 302, 341, 323, 379, 354, 307, 427 of the Indian Penal Code and Section 3(1)(r)(s)(w), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

04. As per the prosecution case, the appellant and other co-accused persons assaulted the informant, his family members and a large number of persons of his community in the backdrop of *Mukhiya* election. A large number of persons sustained injuries and one of them subsequently died.

05. Learned counsel for the appellant submits that the appellant is in custody since 20.11.2021 and out of total 19 charge-sheet named witnesses, only eight witnesses have been examined in this case so far and none of the witnesses have supported the prosecution case as all of them were declared hostile. One Fulmanti Devi, who specifically named this appellant and one Naresh yadav as assailants of the deceased Pramila Devi, has also been examined and even this witness has not supported the prosecution case and she was declared



hostile. Thus, learned counsel submits that substratum of allegation against this appellant goes with the deposition of Fulmanti Devi, who was examined as PW-3 in this case.

06. Learned counsel for the informant/respondent no. 2 supports the contention of the learned counsel for the appellant. Learned counsel for the informant submits that the matter was reported to police due to some misunderstanding and the informant side has rectified its mistake and a large number of witnesses denied the occurrence before the learned trial court. However, learned Special P.P. opposes the submission made on behalf of appellant. Learned Special P.P. submits that a number of witnesses are yet to be examined and hence, prosecution case still stands.

07. Perused the record.

08. Having regard to the aforesaid facts and circumstances and submissions made on behalf of the parties and considering the fact about deposition of large number of witnesses not supporting the prosecution case including the witness Fulmanti Devi, whose statement made in paragraph-50 of the case diary was taken into consideration on previous occasion when the prayer for bail of the appellant was rejected and also considering period of custody of the appellant, he is



directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of Exclusive Special Judge, SC/ST (Prevention of Atrocities Act), Gaya, in connection with Magadh University P.S. Case No. 178 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

(i) One of the bailors will be a close relative of the appellant.

(ii) The appellant will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

09. Accordingly, the impugned order is set aside and the appeal is allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	08-12-2023
Transmission Date	08-12-2023

