

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.567 of 2024

Arising Out of PS. Case No.-377 Year-2022 Thana- BIBHUTIPUR District- Samastipur

Nirala Kumar Ray @ Santu Kumar Yadav @ Santu Kumar @ Sintu Kumar
Yadav son of Ram Sagar Ray R/V- Belsandi Dih Ps- Bibhitipur Dist-
Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Chandan Kumar son of Balo Paswan R/V- Kodariya Ps- Bibhutipur Dist-
Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Kumar, Advocate

For the Respondent/s : Mr. Binay Krishna, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL ORDER

4 10-04-2024 Heard Mr. Ajay Kumar, learned counsel appearing

on behalf of the appellant and the learned Special Public
Prosecutor for the State. The opposite party no. 2 is represented
by learned Advocate Mr. Gautam.

2. The present appeal is preferred against the order
dated 08.01.2024 passed by the learned Special Judge SC/ST
(POA) Samastipur in connection with Bibhutipur P.S. Case No.
377/2022 u/s 302/34 IPC, 27 Arms Act an 3(2)(v) of the
SC/ST(POA) whereby the prayer for bail of the appellant was
rejected.

3. Allegedly on 25.09.2022 at about 12:50 in the night
when the brother of the informant went outside, in the meantime
three unknown persons came on a motorcycle and made firing
due to which he sustained a bullet injury in his abdomen.
Subsequently the brother of the informant died in course of



treatment.

4. It is submitted on behalf of the appellant that as per the narrations made in the FIR, the informant is not an eye witness to the alleged occurrence. Subsequently, during the course of investigation, the name of the appellant has sprung up on the confessional statement of Mr. Dinesh Kumar who has disclosed about the complicity of the appellant. Moreover, co-accused Dinesh Kumar on whose confession the name of the appellant has surfaced, he has been allowed bail by last Co-ordinate Bench of this Court in Criminal Misc. No. 42965 of 2023 vide order dated 28.07.2023. It is further submitted that another co-accused namely Khus Khus Kumar @ Sanjeev Kumar whose name also sprung up in the confessional statement as also been allowed bail in Criminal Misc. No. 42965 of 2023, the copies of both the orders have been brought on record by Annexure 2 series. He next submits that the entire case on based upon the confessional statement of co-accused which is hit by section 25/26 of the Indian Evidence Act. Moreover, the appellant having fair antecedent is in custody since 30.11.2023.

5. On the other hand, learned counsel for the State as well as informant vehemently opposed the prayer of the



appellant and submitted that during the course of investigation, the tower location of the mobile of the appellant and other co-accused persons have been found at the place of occurrence and this fact had not been considered by the learned Co-ordinate Bench while granting the bail to other accused persons. He next submitted that there are ample materials collected during the course of investigation suggesting the complicity of the appellant.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the case of the petitioner is based upon parity coupled with the fact that the entire case is based upon confessional statement of co-accused who has already been allowed bail by this Court, let the appellant, named above, be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees twenty thousand) with two sureties of the like amount. Accordingly the impugned order dated 08.01.2024 passed by the learned Special Judge, SC/ST (POA), Samastipur is hereby set aside.

7. The appeals stands allowed.

(Harish Kumar, J)

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