

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.420 of 2024

Arising Out of PS. Case No.-126 Year-2023 Thana- MEHANDIGANJ District- Patna

KUNDAN RAI @ KUNDAN KUMAR Son of Sri Vinod Mahto Resident of
Mohalla-Maheshpur, Patna City, P.S.-Mehadiganj, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. INDRADEV PRASAD Son of Late Harivansh Prasad Resident of Village-
Mathura Bigha, P.S.-Ekngersarai, District-Nalanda.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Alexander Ashok, Adv.
For the Resp No. 2	:	Mr. Binay Kr. Singh, Adv.
For the Respondent/s	:	Mr.Usha Kumari I

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 02-05-2024 Heard learned counsel for the appellant and learned
counsel for the respondent no. 2 as well as learned Special
Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the rejection of prayer for bail vide
order dated 04.12.2023 passed by the learned Exclusive Special
Judge, SC/ST (POA) Act, Patna in Special case No. 348 of
2023 arising out of Mehadiganj P.S. Case No. 126 of 2023 dated
10.07.2023 registered for the offence/s punishable u/ss 302, 307
read with section 34 of the Indian Penal Code, section 27 of the
Arms Act and 3(2) (va) of the SC/ST (POA) Act.



3. As per the prosecution case, on 09.07.2023 the informant received a phone call about his son that someone has shot him and during the course of treatment he died. It is further alleged that one Vishnu Paswan also sustained bullet injury.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. The appellant is not named in the FIR. The name of the appellant has sprung up in the statement of the injured Vishnu Paswan. It is further stated that as per the statement of the injured, Vishnu Paswan, the specific allegation of firing is against the co-accused Aditya Kumar and Golu Kumar. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the alleged incident hence no case is made out under section SC/ST Act. The appellant has no criminal antecedent as stated in para 3 of the bail petition. The appellant is in custody since 27.07.2023.

5. Learned counsel for the respondent no. 2 as well as learned Spl. P.P. for the State has vehemently opposed the bail petition of the appellant.

6. In view of the aforesaid facts and circumstances of



the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 04.12.2023 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Patna in Special case No. 348 of 2023 arising out of Mehadiganj P.S. Case No. 126 of 2023, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST (POA) Act, Patna in Special case No. 348 of 2023 arising out of Mehadiganj P.S. Case No. 126 of 2023.

(Chandra Prakash Singh, J)

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