

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.828 of 2024

Arising Out of PS. Case No.-758 Year-2023 Thana- KATIHAR NAGAR District- Katihar

Goldi Shrivastava @ Goldi Srivastava Son of Shrikant Shrivastava @ Tuntun Shrivastava Resident of Mohalla- Driver Tola, Santoshi Chowk Ward No. 16, P.S. Nagar, District- Katihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Kajal Kumari D/o of Late Sograth Paswan, Wife of Md. Shabid Ali, Resident of Mohalla- Driver Tola Ward No. 17, P.S. Nagar, District- Katihar

... .. Respondent/s

with
CRIMINAL APPEAL (SJ) No. 934 of 2024

Arising Out of PS. Case No.-758 Year-2023 Thana- KATIHAR NAGAR District- Katihar

Abhishek Mahto @ Misty son of Jay Prakash Mahto Moh- Driver Tola Santoshi Chowk w.No-16, Ps- Nagar Dist-Katihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Kajal Kumari D/o- late Sograth Paswan, W/o- Md. Shabid Ali Moh- Driver Tola W.No-17, Ps- Nagar Dist- Katihar

... .. Respondent/s

Appearance :
(In CRIMINAL APPEAL (SJ) No. 828 of 2024)
For the Appellant/s : Mr.Bimal Kumar, Adv.
For the Respondent/s : Mr.Sadanand Paswan, SPP
For the O.P. No.2 : None
(In CRIMINAL APPEAL (SJ) No. 934 of 2024)
For the Appellant/s : Mr.Bimal Kumar, Adv.
For the Respondent/s : Mr.Sadanand Paswan, SPP
For the O.P. No.2 : None

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 16-05-2024 Heard learned counsel for the appellants and learned

Special Public Prosecutor for the State in both the cases.



Perused the case diary.

2. Learned counsel for the State submits that the O.P. No.2 has been informed but, even then, no one has turned up on behalf of the O.P. No.2.

3. Both the appeals have been filed by the appellants against the orders dated 29.01.2024/20.01.2024 both passed by learned Additional District Judge-I cum Special Judge SC/ST, Katihar whereby the prayer for bail of the appellants in connection with G.R. No. 6031 of 2023 (arising out of Nagar P.S. Case No. 758 of 2023) under Sections 307, 504, 506, 509/34 of the Indian Penal Code and Section 27 of the Arms Act and Section 3(i)(r)(s)(w) of the SC/ST Act, was rejected.

4. The allegation against the accused/appellants is of firing upon the husband of the Informant but, anyhow, her husband flee away from the place of occurrence.

5. Learned counsel for the appellants submits that the appellants are innocent and they have been falsely implicated in this case due to ulterior motive. It is further submitted that in the alleged occurrence, no one has sustained any injury and there is no specific allegation against the appellants as to who has fired the gun-shot and due to personal enmity, their names have been dragged in this case. It is further submitted that neither the



Informant nor her husband or any people have received any injury nor the police has recovered any empty cartridges or live cartridge from the place of occurrence. None of the independent witness has supported the prosecution case. There is also an unexplained delay of sixteen hours in lodging the F.I.R. It is further submitted that all the alleged sections are bailable except Section 307 of the I.P.C. which is not applicable and goes without injury. The appellants have no intention to disgrace the image of the Informant in public view. The appellant/Goldi Shrivastava @ Goldi Shrivastava is in custody since 20.01.2024 whereas the appellant/Abhishek Mahto @ Misty is in custody since 22.12.2023. The appellant/Goldi Shrivastava @ Goldi Shrivastava has one criminal antecedent in which he is on bail whereas the appellant/Goldi Shrivastava @ Goldi Shrivastava has two criminal antecedents and, in both of them, he is on bail. Charge-sheet has been submitted in this case.

6. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellants.

7. Considering the aforesaid facts and circumstances of the case, the period of custody undergone by the appellants and no one has sustained injury in the alleged occurrence, this Court is inclined to allow this appeals. Accordingly, both the



appeals are allowed and orders dated 29.01.2024/20.01.2024 both passed by learned Additional District Judge-I cum Special Judge SC/ST, Katihar are hereby set aside.

8. Let the appellants, abovenamed, in both the appeals, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with G.R. No. 6031 of 2023 (arising out of Nagar P.S. Case No. 758 of 2023), subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the appellants.

(ii) The appellants shall cooperate 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 in the event of failure on two consecutive dates without sufficient reasons, their bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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