

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1804 of 2024

Arising Out of PS. Case No.-27 Year-2022 Thana- MADHEPURA District- Madhepura

Sundar Yadav son of Siyaram Yadav Village- Bhatrandha Ps- Madhepura
Dist- Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Dashrath Sharma son of Late Gulat Sharma Village- Bhatrandha Ps-
Madhepura Dist- Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rabindra Kumar Tiwari, Adv.
For the Respondent/s : Mr.Sadanand Paswan, SPP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

4 20-07-2024 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State as also perused the case
diary. Though, no one appears on behalf of the Informant but,
learned counsel for the appellant submits that the respondent
no.2 has already been informed.

2. The instant appeal has been filed by the appellant
against the order dated 12.02.2024 passed by learned Additional
District and Sessions Judge, 1st Madhepura whereby the prayer
for bail of the appellant in connection with Madhepura
(Dhailadh) P.S. Case No. 27 of 2022 under Sections 379/307 of
the I.P.C. and Section 27 of the Arms Act and Sections 3(1)(r)
(s), 3(2) (va) of the SC/ST (POA) Act, was rejected.

3. As per prosecution case, all the accused persons
including the appellant came at the place of occurrence and



started to forcibly loading the *Simar* tree on the Tractor. On hearing the sound, the Informant reached there when co-accused Suresh Yadav and Bablu Yadav fired on his head but, fortunately, the bullet hit on the arm below the neck. Thereafter, co-accused Bablu Yadav made second fire upon the injured Feku Sharma which passed away touching the ear. Both the injured fell down unconscious. Thereafter, they were taken to hospital for their treatment.

4. Learned counsel for the appellant submits that the appellant has not committed any offence as alleged in the F.I.R. and has falsely been implicated in the present case. There is a land dispute between the parties. He further submits that after completion of investigation, the Police, having not found any role of the appellant in this case, submitted the Final Form vide final charge sheet no. 06/2022 dated 10.03.2022 against the appellant and not sent up for trial but, the learned court below took a different view of the matter and took cognizance against the appellant. There is no specific or direct allegation of any overt act against the appellant rather the allegation of firing on the co-accused Suresh Yadav and Bablu Yadav. He again submits that the case does not disclose the *prima-facie* case against the provision of SC/ST Act. The appellant is in custody



since 30.11.2023 and has no criminal antecedent.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant, stating that the offence alleged is serious in nature. The appellant is named in the F.I.R. and, thus, he does not deserve bail.

6. Considering the entire facts and circumstances of the case, the period of custody undergone by the appellant and the appellant having no specific allegation of any overt act as also the appellant having no criminal antecedent, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated order dated 12.02.2024 passed by learned Additional District and Sessions Judge, 1st Madhepura is hereby set aside.

7. Let the appellant, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Madhepura (Dhailadh) P.S. Case No. 27 of 2022.

(Rudra Prakash Mishra, J)

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