

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2837 of 2024

Arising Out of PS. Case No.-9 Year-2024 Thana- PANCHRUKHI District- Siwan

Santosh Yadav Son of Mundrika Yadav Resident of Village - Mahpur, Police Station - Pachrukhi (Sarai O.P.), District - Siwan.

... .. Appellant/s

Versus

- 1. The State of Bihar
- 2. Gunja Devi Late- Rohit Kumar @ Dharmendra Basfor Resident of Village- Tarawara More, Bijli Office, Hanuman Mandir, P.S.- Panchrukhi, District- Siwan

... .. Respondent/s

with
CRIMINAL APPEAL (SJ) No. 2838 of 2024

Arising Out of PS. Case No.-9 Year-2024 Thana- PANCHRUKHI District- Siwan

Shailendra Yadav @ Bhuar Son of Mundrika Yadav Resident of Village - Mahpur, Police Station - Pachrukhi (Sarai O.P.), District - Siwan.

... .. Appellant/s

Versus

- 1. The State of Bihar
- 2. Gunja Devi Late- Rohit Kumar @ Dharmendra Basfor Resident of Village- Tarwara More, Bijli Office, Hanuman Mandir More, P.S.- Panchrukhi, District- Siwan

... .. Respondent/s

Appearance :
(In CRIMINAL APPEAL (SJ) No. 2837 of 2024)
For the Appellant/s : Mr. Anand Prakash Prabhakar
For the Respondent/s : Mr. Binay Krishna
(In CRIMINAL APPEAL (SJ) No. 2838 of 2024)
For the Appellant/s : Mr. Anand Prakash Prabhakar
For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 05-12-2024 In this case, notices were issued to the respondent and pursuant thereto, the name of Mr. Ajay Kumar Tiwary appears in the cause list but there is no representation.



2. Heard Mr. N.K. Agrawal, learned Senior counsel for the appellant and the State.

3. The present appeal is directed against the order dated 21.05.2024 passed by the learned 1st Addl. Sessions Judge-cum-Special Judge, Saran in Pachrukhi (Sarai O. P.) P. S. Case No. 09 of 2024 bearing G. R. No.10/2024 for the offences punishable under Section-302/34 of the Indian Penal Code, section-27 of Arms Act and section-3(1)(r)(s)/3(2)(va) of SC/ST Act registered on the basis of fardbeyan of informant namely Gunja Devi.

4. As per the prosecution story, the informant alleged that her husband along with two friends went to Paswan Tola where after some arguments between the parties, information came about the firing. Upon reaching there, it was found that Shailendra Yadav (appellant), Birendra Yadav, Santosh Yadav (appellant), Surendra Yadav, Osihar Yadav and Ajit Yadav after giving caste name abused them and later allegation is that Shailendra Yadav and Osihar Yadav opened fire causing injury to her husband/friend which proved fatal. This led to the FIR.

5. Learned counsel for the appellants in both the cases submit that so far as Santosh Yadav is concerned, omnibus allegation is against him, though he has criminal antecedent, has



already suffered by being in custody since 19.01.2024 (para 17 of the petition) and if granted bail, shall be diligently appearing in trial. So far as this case of Shailendra Yadav is concerned, learned Senior counsel submits that after hearing the firing, she rushed to the place and as such, there is doubt on her eye-witness theory.

6. In this case, the Co-ordinate Bench had called for the case diary which is on record, having gone through it and perusal of the same, the specific allegation is against Shailendra Yadav and Osihar Yadav of opening fire which led to the killing of two persons and in that background, so far as the case of Shailendra Yadav (Cr. APP. (SJ) 2838 of 2024) is concerned, his appeal is dismissed.

7. Regarding Santosh Yadav, though his presence has been shown, as stated above, allegation is against Shailendra Yadav and Osihar Yadav, has remained in custody since 19.01.2024, charge-sheet stands submitted, in that background, his appeal stands allowed.

8. The order dated 21.05.2024 passed by the learned Court of 1st Addl. Sessions Court-cum-Special Judge, Siwan in Pachrukhi (Sarai O. P.) P. S. Case No. 09 of 2024 is set aside and the appeal stands allowed.



9. Let the appellant in Cr. APP (SJ) No. 2837 of 2024 namely Santosh Yadav be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned 1st Addl. Sessions Court-cum-Special Judge, Siwan in connection with Pachrukhi (Sarai O.P.) P.S. Case No. 09 of 2024 subject to the following conditions:

(i) one of the bailor in Cr. APP (SJ) No. 2837 of 2024 (Santosh Yadav) should be the family member/relative of the appellant who shall provide official document to show his/her bona fide;

(ii) the appellant in Cr. APP (SJ) No. 2837 of 2024 (Santosh Yadav) shall appear on each and every date before the Trial Court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the appellant in Cr. APP (SJ) No. 2837 of 2024 (Santosh Yadav) shall appear before the concerned police station every fortnight for six months to mark his attendance;

(iv) the appellant in Cr. APP (SJ) No. 2837 of 2024 (Santosh Yadav) shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which



the State shall be at liberty to take steps for cancellation of the bail bonds;

(v) the appellant in Cr. APP (SJ) No. 2837 of 2024 (Santosh Yadav) shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of his bail bonds.

(Rajiv Roy, J)

Vijay Singh/-

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