

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3036 of 2024

Arising Out of PS. Case No.-271 Year-2018 Thana- GOPALGANJ TOWN District-
Gopalganj

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Sunil @ Driver Son of Late Nagai Singh Resident of village - Nechua
Jalalpur, P.S.- Kuchaikot, District - Gopalganj (Bihar).

... .. Appellant/s

Versus

1. The State of Bihar
2. Dr. Alok Kumar Suman Son of Jai Sri Ram R/o village - Yadopur Dukharan
Beni Prasad Ka Tola, P.S.- Yadopur, District - Gopalganj. Presently residing
at Turkaha Gopalganj Thave, P.S.- Nagar, District – Gopalganj.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. N.K. Agrawal, Sr. Adv.
	:	Mr. Saket Tiwary, Adv.
For the State	:	Mrs. Usha Kumari 1, Spl.PP
For the Informant	:	Mr. Nafisuzzoha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

6 13-09-2024

Ref: I.A. No.01/2024

Heard I.A. No.01/2024.

2. For the reasons stated in the application read with
the affidavit, delay of about 12 days in filing Cr.Appeal (SJ)
No.3036/2024 stands condoned.

3. Accordingly, I.A. No.01/2024 stands allowed.

4. The present appeal has been filed against the order
dated 13.03.2024 passed by learned Additional Sessions Judge-
XI cum Special Judge, Schedule Caste and Schedule Tribes
(Prevention of Atrocities) Act, Patna whereby and whereunder
the prayer for bail of the appellant in connection with Gopalganj
Sadar P.S. Case No.271/2018 for the offence punishable under



Sections 395, 397 and 412 of the Indian Penal Code and Sections 3(2)(v) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 was rejected.

5. As per prosecution case, 07 unknown miscreants entered into the house of the informant, tied the informant and his family members with ropes. It is alleged that they took away jewellery, cash, licensed revolver, cartridges etc.

6. Learned counsel for the appellant submits that the appellant is not named in the FIR and his name has been surfaced in this case on the basis of confessional statement of co-accused Yogendra Mahato @ Master @ Bikram. Except confessional statement of co-accused, there is nothing on record to demonstrate the complicity of the present appellant with the alleged occurrence and upon whose confession, the name of the appellant transpired in this case, has already been granted bail by a co-ordinate Bench of this Court vide Cr. Misc. No.27 of 2023 and on the principle of parity, the appellant also deserves same treatment. The appellant has been remanded in this case from Kasheya P.S. Case no.58/2011 for the offences under Sections 395 and 397 of the I.P.C. since 28.04.2024 he is in judicial custody. The appellant bears criminal antecedent of three cases out of two cases he is on bail. No incriminating



articles has been recovered from the conscious possession of the appellant or his house. He further submits that there is no specific allegation against the appellant, allegations are general and omnibus in nature. The appellant has not been put on T.I.P. till date. He further submits that charge-sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. He further submits that the appellant has been roped in this case one after another without any basis. He further submits that the appellant has not taken the caste name of the informant in public view so no offence is made out under the provisions of the SC/ST Act against him.

7. Learned counsel for the informant as well as learned Special P.P. for the State vehemently opposed the prayer of bail of the appellant.

8. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, period of custody, co-accused has already been granted, argument advanced on behalf of both sides and also taking into consideration the material available on record, the Court is inclined to allow the instant appeal. Accordingly, the appeal is allowed and the impugned order 13.03.2024 in connection with Special Case No.41/2023 arising out of Gopalganj Sadar P.S.



Case No.271/2018 by the learned Additional Sessions Judge-XI cum Special Judge, SC/ST Act, Gopalganj is set aside.

9. The appellant is directed to be enlarged on bail in connection with Gopalganj Sadar P.S. Case No.271/2018 on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XI cum Special Judge, SC/ST Act, Gopalganj subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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