

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3691 of 2022**

Arising Out of PS. Case No.-432 Year-2021 Thana- UDWANTNAGAR District- Bhojpur

DAROGA YADAV @ ARJUN KUMAR @ ARJUN YADAV Son of Santoshi
Yadav @ Santosh Yadav Resident of Village - Malanchak, P.S.- Udwanthnagar,
District - Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Anil Chaudhary Son of Nathuni Chaudhary Resident of Village - Chankipur,
P.S.- Udwanthnagar Gajrajganji), District - Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sheo Jee Mishra, Adv.
For the State/s	:	Mr.Sadanand Paswan, Spl.P.P.
For the Informant	;	Mrs. Akanksha Malviya, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

8 02-08-2024 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and learned counsel for
the respondent No.2.

2. The appellant seeks regular bail in connection with
SC/ST Case No.05 of 2022 arising out of Udwanthnagar
(Gajrajganj) P.S. Case No. 432 of 2021 lodged for offences
punishable under Sections 341, 307, 302/34 of the Indian Penal
Code read with Sections 3(1)(r)(s), 3(2) (v) of Schedule Caste
and Schedule Tribe Act read with Section 27 of the Arms Act.

3. The present appeal has been filed for setting aside
the order dated 02.08.2022 passed by learned 1st Addl. Sessions
Judge-cum- Special Judge, SC/ST Act, Bhojpur at Ara passed in



SC/ST Case No.05 of 2022 arising out of Udwantnagar (Gajrajganj) P.S. Case No. 432 of 2021.

4. Counsel for the appellant submits that the present F.I.R. has been lodged against four named accused persons including the appellant against whom there is allegation that the appellant is the order giver and instigator as well as caught the deceased and on his behest, the one accused Dinanath Kumar has fired gun shot on the victim which resulted into death.

5. Counsel further submits that the appellant is innocent and has committed no offence. He submit that as per the F.I.R., the specific allegation is against named accused Dinanath Kumar only who is in custody and the appellant is merely order giver and allegation that he has caught the victim.

6. Counsel for the appellant submits that the named accused persons have been granted bail by the Co-ordinate Bench of this Court vide order dated 07.07.2022 passed in Cr. Appeal(SJ). No.315 of 2022 and same order in Cr. Appeal(SJ). No.444 of 2022. He further submits that the case of the appellant is squarely covered as like that of other accused persons.

7. Counsel further submits that the appellant is in custody since 11.11.2021 having two criminal cases pending



against him in which he is on bail.

8. Learned Special Public Prosecutor opposes the prayer for bail and submits that the allegation of direct firing is against other accused persons, but the present appellant is the instigator and at the commission of the crime, he has caught the deceased.

9. Counsel further submits that previously, progress report of the trial has been called for.

10. Learned counsel for the informant vehemently opposes the prayer for bail and submits that the appellant is not only instigator and order giver due to which the deceased died rather on his instigation, the other victim has also been brutally injured and the act of the instigation and order giver is repetitive in nature.

11. From the progress report, it transpires that the evidence of prosecution witnesses has been completed and case is pending for examination of the accused under section 313 of the Cr.P.C.

12. In this view of the matter, this Court is not inclined to grant bail to the appellant. Therefore, the bail application of the appellant is hereby rejected.

13. However, trial court is directed to conclude the



trial within two months from today and if trial shall not be concluded within the said period, trial court is directed to release the appellant.

14. It is made clear that the trial court prior to release him on bail, shall pass order after ascertaining that delay in the trial after section 313 of Cr.P.C. stage has not been made at the behest of the accused persons.

(Dr. Anshuman, J.)

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