

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4445 of 2023

Arising Out of PS. Case No.-98 Year-2022 Thana- SINGHESHWAR District- Madhepura

GULSAN KUMAR YADAV SON OF YOGI YADAV VILLAGE-
DANDARI WARD NO 03, PS- SINGHESHWAR, DIST- MADHEPURA

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. ANIL SARDAR SON OF SUKDEV SARDAR VILLAGE- BHOKRAHA,
WARD NO. 07, PS- KUMARKHAND, DIST- MADHEPURA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Pawan Kumar, Adv.

For the Respondent/s : Mr.Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 30-01-2024 Heard the parties.

2. The present appeal has been filed against the order dated 07.08.2023 passed by learned Additional Sessions Judge-1st cum Special Judge, Madhepura whereby the prayer for bail of the appellant in connection with Singheshwar P.S. Case No. 98 of 2022 for the offence punishable under Sections 341, 323, 325, 307, 379, 427, 504, 506/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(1)(r)(s)/3(2)(va) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act was rejected.

3. As per prosecution case, on the exhortation of appellant, co-accused Rajiv Yadav opened fire upon the



informant as a result of which informant sustained injury on the left wrist.

4. Learned counsel for the appellant submits that appellant is innocent and has not committed any offence as alleged in the FIR and he has falsely been implicated in this case due to dirty village politics. He further submits that from perusal of the FIR itself, it is clear that appellant is only order giver. He further submits that in his re-statement, the informant has not made allegation, as has been levelled against the appellant in the FIR. The victims in their statements recorded at para-20 and 21 of the case diary have not whispered anything against the appellant regarding allegation of order giver, as mentioned in the FIR. He further submits that appellant is in custody since 03.07.2023 and bears no criminal antecedent. He further submits that co-accused Gautam Yadav and Amit Kumar, against whom there is allegation of assault, has already been granted bail by a co-ordinate Bench of this court vide Cr. Appeal (SJ) No. 4375 of 2023 and case of present appellant stands on better footing as he is merely order giver as per FIR.

5. Learned Special Public Prosecutor for the State vehemently opposed the prayer of bail of the appellant.

6. Having heard learned counsel for the parties and



taking into consideration the facts and circumstances of the case, period of custody, the appellant is merely order giver, 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. The appeal is allowed and the order dated 07.08.2023 passed by learned Additional Sessions Judge-1st cum Special Judge, Madhepura in connection with Singheshwar P.S. Case No. 98 of 2022 is set aside.

7. The appellant is directed to be enlarged on bail in connection with Singheshwar P.S. Case No. 98 of 2022 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-1st cum Special Judge, Madhepura, 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 the instant appeal.

(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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