

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3938 of 2024

Arising Out of PS. Case No.-9 Year-2005 Thana- UDAKISHUNGANJ District- Madhepura

Mithlesh Yadav @ Mithilesh Yadav Son of Late Dhunmun Yadav R/o Village-
Shekhpur Chaman, P.S-Udakishunganj, District-Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Anand Kumar (SHO), Udakishunganj P.S., District- Madhepura Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agrawal, Sr. Adv. Mr. Pawan Kumar Jha, Adv.
For the Respondent/s	:	Mr. Usha Kumari 1, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

5 20-02-2025 Heard learned counsel for the appellant and learned

Special Public Prosecutor for the State. None turn up on behalf
of the Opposite Party No.2, however, notice has validly been
served.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
SC/ST Act) against the refusal of prayer of bail *vide* order dated
25.04.2023 passed by the learned Additional Session Judge-1st-
cum-Special Judge, Madhepura in connection with
Udakishunganj P.S. Case No. 09 of 2005 dated 03.02.2005
registered for the offence/s punishable u/ss 147, 148, 149, 307,



353 and 414 of the Indian Penal Code, Section 27 of Arms Act and u/s 3(i)(vii) of SC/ST (POA) Act.

3. As per the prosecution case, the informant, Officer-in-charge of the Udakishunganj police station recorded his self-statement stating that he was engaged in the law-and-order situation of the Aam Sabha going to be held in the Udakishunganj High School of the Hon'ble Sharad Yadav Ex-Minister. In the meantime, got informant that independent candidate Smt. Sunila Devi along with his brother-in-law Mithilesh Yadav (appellant) with his 12-15 associates threatened the schedule cast and schedule tribe voters to vote in her favour. On this information, when the informant visited there with other police personnel and officers and found Sunila Devi and her brother-in-law along with 12-15 associates present there and seeing the police party they started firing with intention to kill and fled away and no effect of his order to surrender. He further stated that they concealed them in the Pokhar and continued firing. In the self-defense on his order police party also made firing. Lastly, they fled away taking advantage of the darkness. He further stated that 9 horses and mares of red, black and white colour were tied in the orchard. Thereafter, they proceeded to the Budhma Picket, in the meantime, senior police officer and



commando force also reached there and several round of firing was made by the personnels.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. It is a case of misuse of bail granted to the appellant. It is further submitted that none of the police personnel sustained injury nor the appellant made hindrance in the official duty of the informant. There is no allegation of abusing against the appellant and hence, no offence under the provisions of SC/ST Act is made out against the appellant. The appellant has 28 criminal antecedents out of which he is on bail in 17 cases and he is acquitted in 11 cases as stated at para 3 of the bail petition. The appellant is in custody since 15.07.2022.

5. Learned counsel learned Spl. P.P. for the State as well as learned counsel for the informant have vehemently opposed the prayer of bail.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 25.04.2023 passed by the learned Additional Session Judge-1st-cum-Special Judge, Madhepura in connection with Udakishunganj P.S. Case No. 09 of 2005 is set aside against the



appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Session Judge-1st-cum-Special Judge, Madhepura in connection with Udakishunganj P.S. Case No. 09 of 2005, with the condition:-

(i) The appellant is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellant are liable to be cancelled.

(Chandra Prakash Singh, J)

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