

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4992 of 2023

Arising Out of PS. Case No.-209 Year-2023 Thana- MAJORGANJ District- Sitamarhi

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1. Bachcha Prasad Yadav @ Bachcha Prasad Ray Son of Kailash Rai R/o vill - Belwa Parari, P.S.- Majorganj, Distt. - Sitamarhi, Pin 843332
 2. Manish Kumar Son of Bachcha Prasad Yadav @ Bachcha Prasad Ray R/o vill - Belwa Parari, P.S.- Majorganj, Distt. - Sitamarhi, Pin 843332
 3. Rahul Kumar Son of Shiv Prasad Yadav R/o vill - Belwa Parari, P.S.- Majorganj, Distt. - Sitamarhi, Pin 843332

... .. Appellant/s

Versus

1. The State of Bihar
2. Arvind Kumar Mehta Son of Late Chhotelal Mehta r/o vill - Belwaparari, P.S. - Majorganj, Distt. - Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Uday Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

9 29-04-2025 Heard Mr. Uday Kumar, learned counsel for the appellants and Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. Learned Spl.P.P. has informed this Court the he informed the respondent no. 2 through the Senior Superintendent of Police, Sitamarhi on 24.04.2025 despite of that no one appeared on behalf of the respondent no. 2.

3. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 26.09.2023 passed by the learned 1st Additional Sessions Judge-



cum-Special Judge SC/ST (POA) Act, Sitamarhi in ABP No. 65 of 2023/254 of 2023 in connection with Majorganj P.S. Case No. 209 of 2023, F.I.R. dated 25.07.2023 registered under Sections 302, 307, 120(B) and 34 of the Indian Penal Code as well as Section 27 of the Arms Act and Sections 3 (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. According to the prosecution case, informant heard three miscreants on red colour bike arrived and two of them came and fired upon Rajiv Kumar, who happens to the brother of the informant.

5. Learned counsel for the appellants submits that appellants have falsely been implicated in the present case on the basis of the suspicion. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the appellants have not committed any offences as alleged in the F.I.R. He further submits that it appears from the F.I.R. itself that the informant has not stated anything about the appellants. Apart from that the injured persons have also not stated anything about the appellants and the injured specifically stated that the co-accused, namely, Ambuj Kumar fired upon the deceased person and the injured person and except the suspicion no other cognet



material has come during investigation which suggests the involvement of the appellants in the present occurrence.

6. Learned Special Public Prosecutor for the State on the basis of material available on record and case diary has vehemently opposed the prayer for bail of the petitioner and submits that the statement of the injured person was recorded under Section 161 of Cr.P.C. in which he categorically stated that the co-accused Ambuj Kumar has fired upon the deceased and the injured person. Apart from that the appellant nos. 1 & 3 carry one case each other than the present one and appellant no. 2 has clean antecedent but fairly submits that the appellant nos. 1 has been acquitted in the pending matter and the appellant no. 3 is on bail in the pending matter.

7. After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Scheduled Castes and Scheduled Tribes Act is made out.

8. Hence, let the appellants, above named, in the event of their arrest to surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two surities of the like amount each to the satisfaction of learned 1st Additional



Sessions Judge-cum-Special Judge SC/ST (POA) Act, Sitamarhi in connection with Majorganj P.S. Case No. 209 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita, 2023 and with other following conditions:-

i. Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on their absence on two consecutive dates without sufficient reason, their bail bond shall be cancelled by the Court below.

ii. If the appellants tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage it is found that the appellants have concealed their criminal antecedent, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.



9. Accordingly, the impugned order is set aside and
this appeal stands allowed.

(Rajesh Kumar Verma, J)

Jyoti Kumari/-

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