

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5508 of 2024

Arising Out of PS. Case No.-44 Year-2023 Thana- KUDHNI District- Kaimur (Bhabua)

1. Satyendra Rai @ Dalgira Rai S/o- Gopal Rai @ Gopal Ji Rai Village- Dumduma PS-Kudhani District- Kaimur
2. Amit Rai S/o- Gopal Rai @ Gopal Ji Rai Village- Dumduma PS-Kudhani District- Kaimur
3. Narendra Rai @ Sughari Rai @ Nagendra Rai S/o- Gopal Rai @ Gopal Ji Rai Village- Dumduma PS-Kudhani District- Kaimur
4. Girjashankar Rai S/o- Buchi Rai Village- Dumduma PS-Kudhani District- Kaimur
5. Lali Rai S/o- Vijay Shankar Rai Village- Dumduma PS-Kudhani District- Kaimur

... .. Appellant/s

Versus

1. The State of Bihar
2. Guddu Mushar S/o- Sudama Mushar Village- Kudhani Ps- Kudhani Dist- Kaimur Bhabua

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Y.V. Giri, Sr. Adv. Mr. Santosh Kumar Pandey, Adv.
For the Respondent/s	:	Mr. Sadanand Paswan, SPP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

3 07-02-2025 Heard learned counsel for the appellants, learned Special Public Prosecutor for the State. Perused the case diary.

2. The instant appeal has been filed by the appellants against the order dated 25.11.2024 passed by learned District and Additional Sessions Judge-1 cum Special Judge, Kaimur at Bhabua whereby the prayer for bail of the appellants in connection with Kudhani P.S. Case No. 44 of 2023 under Sections 147, 148, 149, 302 of the I.P.C. and Section 27 of the Arms Act and Sections 3(2)(v) of SC/ST (POA) Act, 1989, was



rejected.

3. Prosecution case, in short, is that all the accused persons including the appellants carrying weapons in their hands came on cars and bikes at the place of occurrence. On seeing the accused persons, the Informant and other persons started fleeing from there. It is alleged that the co-accused Arvind Rai @ Bagrudan Rai fired a gun shot at Santosh Mushar and, as a result, he died on the spot.

4. Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. Learned counsel for the appellants submits that earlier the appellants have moved before this Court with a prayer for anticipatory in Cr. Appeal (SJ) No. 736 of 2024 along with other appellants which was dismissed on 04.10.2024. Thereafter, the appellants moved before the Apex Court vide Special Leave & Appeal (Cri.) No. 14835 of 2024 which was also dismissed on 25.10.2024. Thereafter, the appellants surrendered before the learned court below and made a prayer for regular bail which was rejected by the impugned order. The appellants are family members and relatives. He further submits that so far as alleged occurrence is concerned, the appellants are not involved in any way. They were also not present at the



alleged place of occurrence and they have been falsely implicated in the present case on account of previous enmity. In the present F.I.R., altogether sixteen persons have been made accused and all belongs to *gotia* family to each other. There is no specific or direct allegation of any overt act against the appellants rather the same are general and omnibus in nature. The specific allegation of firing is against the co-accused Arvind Rai @ Bagrudan Rai. The appellants were only the member of mob. No offence under the SC/ST (Prevention of Atrocity) Act is made out against the appellants in view of the fact that there is not a whisper in the F.I.R. that the Informant and his team were ever abused in the name of their caste in public view. The Informant has lodged the instant FIR purely as a counter blast to the cases lodged against them by the appellant nos.1 and 2 in order to screen themselves from their glaring criminality. Learned counsel for the appellants further submits that witnesses at Para 88 and 89 of the main case diary have stated that Arvind Rai @ Bagrudan Rai had shot the deceased whereas they in their re-statement have completely changed their earlier statement and gave totally different version of the manner of occurrence alleging that appellant no.1 has fired the shot on the deceased. Lastly, learned counsel for the appellants submits that



co-accused persons have already been granted bail by this Court vide order dated 24.06.2024 passed in Cr. Appeal (SJ) No. 1429 of 2024 and Cr. Appeal (SJ) No. 1636 of 2024 respectively. Charge-sheet has been submitted in this case. The appellants are in custody since 25.11.2024. The appellant no.1 has four criminal antecedents, the appellant no.2 has two criminal antecedents, appellant no.3 has one criminal antecedent, appellant no.4 has one criminal antecedent and the appellant no.5 has also one criminal antecedent as has been stated in Para-3 of the present appeal.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellants, stating that several witnesses at Para 10, 88, 89 and 95 of the case diary have supported the case of prosecution. The anticipatory bail application of the appellants has already been rejected by this Court as well as by the Hon'ble Apex Court. He further submits that the witnesses at Para 88 and 89 of the supplementary case diary have specifically stated that firing was made by the appellant no.1 Satyendra Rai @ Dilgira Rai.

6. Having heard learned counsel for the parties and the material available on record as also there being direct and specific allegation of firing against the appellant no.1, above



named, this Court is not inclined to grant bail to the appellant no.1.

7. Accordingly, the prayer for bail of the appellant no.1, namely, Satyendra Rai @ Dalgira Rai is hereby rejected.

8. So far as appellant nos. 2 to 5 are concerned, there being no specific and direct allegation of any overt act against them as also taking into account the period of custody, this Court is inclined to grant bail to the appellants nos. 2 to 5. Accordingly, the appeal is allowed in part and the order dated 25.11.2024 passed by learned District and Additional Sessions Judge-1 cum Special Judge, Kaimur at Bhabua, is hereby set aside as against the appellant nos. 2 to 5.

9. Let the appellant nos. 2 to 5, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Kudhni P.S. Case No. 44 of 2023.

(Rudra Prakash Mishra, J)

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