

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (DB) No. 869 of 2023

Sunil Ganjhu aged about 37 year son of Chaman Ganjhu
Resident of village-Simaratari, P.O. & P.S. – Pathalgadda,
District-Chatra

--- --- Appellant

Versus

The State of Jharkhand

--- --- Respondent

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**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE NAVNEET KUMAR**

For the Appellant : Mr. Baleshwar Yadav, Advocate

For the State : Mr. Shiv Shankar Kumar, A.P.P.

Order No.13/ Dated 31st October, 2023

1. The instant appeal, filed under Section 21(4) of the National Investigation Agency Act, 2008, is directed against the order dated 22.02.2023 passed in B.P. No. 143 of 2023 by the learned Sessions Judge, Chatra in connection with Mayurhand P.S. Case No. 88 of 2020 registered under Sections 147,148,149,120B, 302, 379 of the IPC; Section 17(i)(ii) of the CLA Act; Section 27 of the Arms Act and Section 10,13 of UAP Act, whereby and whereunder the prayer for regular bail of the appellant has been rejected.

2. It has been contended on behalf of the appellant by referring to the entire allegation levelled against the appellant that there is no imputation of any overt act against him.

3. It has also been contended that the co-accused namely Santosh Yadav @ Tattu Yadav, based upon whose confession the name of the appellant has surfaced in this case has already been directed to be released on bail in B.A. No. 5060 of 2021 vide order dated 28.06.2021.

4. It has further been contended that one another co-accused namely Arjun Yadav, against whom, there is allegation of catching hold of the deceased, has also been directed to be released on bail by a co-ordinate Bench of this Court in Criminal Appeal (DB) No. 1479 of 2022 vide order dated 19.01.2023.

5. It has further been submitted by referring to the criminal antecedent report dated 31.07.2023 that although one case pending against the appellant is of 2002 and another is of 2014 and thereafter appellant has been apprehended in a case instituted in the year 2020, which is the present one.

6. Learned counsel for the appellant in the aforesaid premises has submitted that since the co-accused persons against whom there is serious allegation, have already been directed to be released on bail and also since there is no allegation of any overt act against the appellant as per the prosecution version and even no material has surfaced during course of investigation, as such, it is a fit case for grant of bail by interfering with the order impugned.

7. Learned A.P.P appearing on behalf of the State has vehemently opposed the prayer for regular bail by citing the criminal antecedent of the appellant. However, he is fair enough to submit after going through the case diary that no overt act has been attributed against the appellant.

8. Having heard learned counsel for the parties and taking into consideration the entire imputation against the appellant and by comparing the allegation levelled against the co-accused Santosh Yadav @ Tattu Yadav and Arjun Yadav, who have been granted bail in B.A. No. 5060 of 2021 vide order dated 28.06.2021 and Criminal Appeal (DB) No. 1479 of 2022 vide order dated 19.01.2023 respectively, this Court has found that nature of allegation levelled against the co-accused persons is serious and on the other hand there is nothing against the appellant save and except that he was present at the place of occurrence as per the confession made by the co-accused Santosh Yadav.

9. Having regard to the aforesaid facts and circumstances of the case, this Court is of the view that impugned order needs to be interfered with by setting aside the same.

10. Accordingly, the order dated 22.02.2023 passed in B.P No. 143 of 2023 is hereby quashed and set aside.

11. In view thereof, the instant appeal stands allowed.

12. In consequence thereof, the appellant, above named, is directed to be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned District & Additional Sessions Judge-V, Chatra in connection with Mayurhand P.S. Case No. 88 of 2020

corresponding to G.R. No. 250 of 2021, subject to the condition that the appellant shall appear on each and every date before the Trial Court, failing which, the learned Trial Court will be at liberty to cancel the bail bonds.

13. Accordingly, the instant appeal stands disposed of.

(Sujit Narayan Prasad, J.)

(Navneet Kumar, J.)