

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.532 of 2017

Arising Out of PS.Case No. -19 Year- 2016 Thana -ITADHI District- BUXAR

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1. Daya Shankar Upadhyay, Son of Badri Narayan Upadhyay, Resident of Village- Manoharpur, P.S.- Itarhi, District- Buxar.

.... Appellant/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. S.N.P. Sinha, Sr. Advocate
Mr. Jitendra Narayan Sinha, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

5 19-05-2017 The appellant seeks regular bail in connection with Itahri P.S. Case No. 19 of 2016, registered for offences punishable under Section 302 Indian Penal Code as well as under Section 3(2)(v) SC/ST (Prevention of Atrocities) Act.

Allegation against the appellant that he intentionally drove the tractor over the father of the informant due to which he died.

It has been submitted on behalf of the appellant that it was not an intentional act of the appellant as alleged and the occurrence took place when the appellant was backing his tractor, for which can be held guilty under Sections 279 and 304A and not under Section 302. Further witnesses in several paragraphs of the case diary has supported the case of the appellant that while



he was backing his tractor, it accidentally hit the deceased. Appellant has been in custody since 28.09.2016.

Learned Special Public Prosecutor opposed the prayer for bail.

Having heard both sides, considering the aforesaid facts and circumstances and also witnesses in paragraph 40, 44 and 56 of the case diary has clearly stated that it was an accident and further he is in custody for last more than seven months, as such, this appeal is allowed. Let appellant, above named, be enlarged on bail on furnishing bail bond of ₹25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-II, Buxar, in connection with Itahri P.S. Case No. 19 of 2016, subject to the following conditions:-

- (i) One of the bailors of the appellant shall be local one, having sufficient immovable properties within the jurisdiction of the court concerned.
- (ii) Appellant shall not induce any witness or tamper with the evidence.
- (iii) The appellant shall cooperate in the trial and make himself present as and when required by the court and on the event of



failure on his part to appear before the court, on two consecutive dates, without obtaining prior permission, prosecution will be free to move for cancellation of his bail bonds.

(Vinod Kumar Sinha, J)

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