

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No. 827 of 2018

Arising Out of PS.Case No. -23 Year- 2000 Thana -DEOKUND District- AURANGABAD

=====

Avinash Sharma @ Avinash Kumar S/o Late Nawal Sharma @ Nawal Kishore
Sharma, R/o Village - Senari, P.S. - Karpi, District - Arwal.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-11-2018

Heard learned counsel for the parties.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for regular bail vide order dated 29.01.2018 in Sessions Trial No. 277A/2003/01/2016 arising out of Deokund (Uphara) P.S. Case No. 23 of 2000 passed by the learned 1st Additional Sessions Judge, Aurangabad in connection with the aforesaid case registered under Sections 147, 148, 149, 341, 324, 307, 120B, 302 of the Indian Penal Code, Section 27 of the Arms Act, Section 17 of the C.L.A. Act and Section 3/4 of the Explosive Substance Act as well as Section 3(2)(5) of the SC/ST Act.

The report of the learned trial Judge vide his letter no.



89, dated 31st October, 2018 at flag X would reveal that he had already complied order of this Court dated 17.09.2018 by sending a report which was received in the office on 05.11.2018. The same was not placed along with record. In the circumstances, explanation was called for from the learned court below on 25.10.2018.

Now the Registry shall submit explanation within a period of two weeks from today for not placing the said report in spite of the receipt of the same. The name of the erring persons should also be disclosed for suitable action.

The report of the learned trial Judge would reveal that the case is running for prosecution evidence but no witness has turned up till now.

The offence relates to carnage in which a number of persons were butcher to death.

Submission of learned counsel for the appellant is that the appellant is not named in the FIR. The informant in his further statement disclosed name of one Abhinash Sharma who faced trial and was convicted. Thereafter, no occasion was there to implicate another Abhinash Sharma i.e. the appellant.

Submission is that earlier this Court had rejected the prayer for bail on 17.11.2008 and thereafter on 31.03.2010 and then on 06.03.2013 on the ground that there is no change in circumstances



and last it was rejected on 27.01.2016. The appellant is in custody since 04.05.2007.

Considering the fact that the appellant is in custody since last 11 years and no prosecution has been examined during trial, hence, there is no chance of conclusion of the trial in near future, let the appellant, above named, be released 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 learned Court below where the case is pending in connection with the aforesaid case, subject to the condition that the appellant shall fully cooperate with the trial of the case, failing which the court below would be at liberty to cancel the bail bond of the appellant as well as condition that both the bailors shall be resident of the territorial jurisdiction of the learned court below. The appellant shall not tamper with the evidence.

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

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	08.11.2018
Transmission Date	08.11.2018

