

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.4118 of 2018

Arising Out of PS. Case No.-355 Year-2018 Thana- BARACHATTI District- Gaya

Suresh Yadav S/o Jugal Yadav Resident of Village-Hadiyadag, P.S. Barachtti
(Mohanpur) District Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Praveen Kumar, Advocate
For the Respondent/s : Mr. Binay Krishna, SPP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 20-12-2018

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 against the refusal of prayer for bail vide order dated 20.09.2018 passed by the learned Exclusive Special Judge (S.C./S.T. Act), Gaya, in connection with Barachatti (Mohanpur) Police Station Case No.355 of 2018, registered under Sections 302/120B of the Indian Penal Code and Section 3(2)(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

A Civil Suit is going on between the parties. For that reason the informant claims to be an eyewitness of the occurrence of murder of her husband has stated in the FIR that the appellant stopped her husband and fired at him. The informant was following



her husband on another motorcycle when she saw the aforesaid occurrence. Thereafter, she further alleges that eight persons including the appellant had fired at her husband and fled away.

Submission of the learned counsel for the appellant is that the case-diary would reveal that first the police got information that a dead body was lying near the river side when the police went thereat the dead body was identified by the local Chaukidar as of Sukhdeo Paswan, husband of the informant. Murder of Sukhdeo Paswan was committed. The post mortem report would reveal that single fire-arm injury was found by the doctor on the person of the deceased. Thereafter, in her further statement the informant stated that the appellant had caused the fatal fire-arm injury to her husband. The person who was accompanying the deceased also stated that appellant had caused injury to the deceased. The appellant is in custody since 04.07.2018. Investigation of the case is already complete and the petitioner is ready to cooperate with the trial.

Learned counsel for the informant opposed the prayer for bail on the ground that the informant is an eyewitness of the occurrence and at this stage she cannot be disbelieved only for the reason that she had named other persons also as assailants of the deceased.

The entire statement of the FIR and the post mortem



report available creates doubt on the prosecution version for the purpose of consideration of this prayer for bail. Either the informant is eyewitness of the occurrence of assault by the appellant or she is not the eyewitness of the occurrence and subsequently been placed as an witness of the occurrence and implicated other seven persons.

Hence, let the appellant, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with the aforesaid case, with condition that the appellant shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellant.

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

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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