

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.651 of 2019**

Arising Out of PS. Case No.-188 Year-2018 Thana- JOGBANI District- Araria

MOHAN MANDAL @ MANMOHAN MANDAL, S/o Shivnath Mandal @
Shivnath Sah R/o village - Patel Nagar, Ward No-13, P.S- Jogbani, Distt.-
Araria

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.N. K. Agrawal, Advocate. Mr. Kundan Kumar Singh, Advocate.
For the State	:	Mr. Sadanand Paswan, Spl. PP.
For the Informant	:	Mr. Umesh Pd, Advocate.

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

12 20-08-2019 Heard learned counsel for the appellant, learned
counsel for the informant and learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the SC/ST
Act against the refusal of prayer for bail vide order dated
17.11.2018 passed by learned 1st Addl. Sessions Judge, Araria in
Jogbani P.S. Case No. 188 of 2018 registered under Sections
307, 302, 120B/34 of the Indian Penal Code, Section 27 of the
Arms Act and Sections 3(2)(v) of the SC/ST Act.

Appellant Mohan Mandal and co-accused Ajay



Sah are said to have dragged out the son of the informant namely Amar Ram to the road from his house in the night and the appellant resorted firing on the head of his son by means of pistol. Appellant was resorting indiscriminate firing and one of the bullet hit on the left leg of the informant. Both the accused persons left the scene resorting firing on congregation of the villagers. The deceased was rushed to the hospital where he was declared brought dead by the doctor.

It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case due to animosity. At the time of occurrence, he was in jail custody in Jogbani in connection with Jogbani P.S. Case No. 186 of 2018. He has been languishing in custody since 17.07.2018. Hence he may be enlarged on bail.

On the other hand, learned Spl. PP for the State and learned counsel for the informant vehemently opposing the bail petition submitted that there is specific allegation against the appellant of gunning down the son of the informant. Several witnesses who happen to be eye witness of the occurrence in Paragraph Nos. 7, 8, 10, 11, 12 and 13 of the case diary have



unanimously supported the prosecution case and complicity of the appellant in the occurrence. I.O. has recovered pistol and live cartridges from the possession of the appellant after the occurrence. CDR report of the mobile phone of the appellant and other two accused persons indicates that they had interacted times and again amongst them around the time of occurrence. Aforesaid aspect of the case candidly indicates the presence of the appellant at the place of occurrence and his complicity in the occurrence. The defence of *alibi* taken by the appellant is not worth consideration at the stage of bail rather at the stage of trial. Hence the appellant does not deserve bail.

Having regard to the facts and circumstances of the case, I am not inclined to enlarge the appellant on bail. Prayer for bail of the appellant is rejected. Accordingly this appeal is dismissed.

However, learned Trial Court is directed to conclude the trial as expeditiously as possible preferably within nine months from the date of receipt/production of a copy of this order fixing the case on day to day basis and S.P., Araria is directed to ensure production of the witnesses in the case on each and every date fixed in the case without fail.



Let a copy of this order be communicated to S.P.,
Araria by fax for needful.

(Prakash Chandra Jaiswal, J)

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