

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.478 of 2019**

Arising Out of PS. Case No.-235 Year-2018 Thana- ARA MUFFSIL District- Bhojpur

Kanhai Yadav @ Kanhaiya Yadav Son of Surya Nath Yadav R/o village-
Chitkundi Bara P.S-Ara Mufassil District-Bhojpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kalyan Shankar

For the Respondent/s : Mrs. Usha Kumari I

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

ORAL ORDER

9 19-08-2019 Heard learned counsel for the appellant and learned
Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer for bail vide order dated 01.09.2018 passed by learned 1st Addl. Sessions Judge, Bhojpur at Ara in Ara Mufassil P.S. Case No. 235 of 2018 registered under Sections 147, 148, 149, 302, 120(B) of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r)(s), 3/(2)(V-A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

While the husband of the informant was proceeding for labour work along with other persons, on the exhortation of co-accused, Lalbabu Yadav, Sita Devi and Surendra Paswan,



Pradip Paswan caught hold the waist of her husband and Nagendra Yadav slating him in name of his caste resorted firing on rear side of his head by means of pistol and when her husband fell down on the ground, appellant Kanhaiya Yadav resorted firing on his chest by means of pistol. Her husband succumbed to injury.

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 this case due to dirty village politics. Earlier, on contact with the family members of the informant by the I.O., they did not give information regarding the occurrence, and subsequently, filed this false and frivolous case against the appellant after consultation. Appellant has no criminal antecedent and has been languishing in custody since 01.09.2018, hence, he may be enlarged on bail.

Per contra, learned Spl. P.P. for the State opposing the bail prayer of the appellant submitted that the appellant had resorted firing on the chest of the husband of the informant by means of pistol and doctor conducting autopsy of cadaver of the deceased has also found firearm injury on the chest as well. Witnesses in paragraphs 15, 16, 17 and 18 of the case diary, who happen to be companions of the deceased and eyewitness of the



occurrence, have unanimously supported the prosecution case and complicity of the appellant in the occurrence, 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. Accordingly, his prayer is rejected.

(Prakash Chandra Jaiswal, J)

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