

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1465 of 2019**

Arising Out of PS. Case No.-89 Year-2018 Thana- SIKARHATTA District- Bhojpur

Manish Mahto Son of Sunil Mahto Resident of Village-Bagar, P.S.-
Sikarahata, District- Bhojpur (Ara)

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. N. K. Agrawal, Sr. Adv.

Mr. Ajit Kumar, Adv.

For the Respondent/s : Mr. Sadanand Paswan, Special P.P.

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

ORAL ORDER

8 06-09-2019 The show cause submitted by the Civil Surgeon,
Bhojpur at Ara is accepted.

Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
'SC/ST Act') against the refusal of prayer for bail vide order
dated 31.01.2019 passed by learned 1st Additional Sessions
Judge, Bhojpur at Ara in connection with SC/ST Case No.350
of 2018, arising out of Sikarahata P.S. Case No. 89 of 2018
registered under Sections 147, 148, 149, 307, 326, 504 & 120B
of the Indian Penal Code, Section 27 of the Arms Act and



Section 3(1) (r) (s)/3 (2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Manish Mahto (appellant) and Amarjit Kumar along with six other accused persons dragged the son of the informant Mithilesh Kumar and on protest made by Sita Devi Mithilesh Kumar started escaping. Then on exhortation of Amarjeet Kumar appellant resorted firing on the stomach of her son from the point blank range. Appellant and one another accused were apprehended by villagers.

It is submitted by learned counsel for the appellant that appellant has been falsely implicated in the case. Though appellant was apprehended by villagers at the spot but no incriminating article was recovered from his possession. As per the prosecution case, the appellant is said to have assaulted on the stomach of the victim from the point blank range but the doctor has not found any firearm injury on the stomach rather on the chest of the victim. Moreover there is discrepancy in the injury report submitted by the Civil Surgeon, Bhojpur at Ara and the injury report submitted by PMCH, Patna. In the formal injury report only one gun shot injury has been found on the right side of chest of the victim with surrounding skin burn and redness but in the later one wound of entry and one wound of



exit has been found without any burning and redness of the skin. Moreover, if a person is shot on his stomach from point blank range there is no scope of missing the target and inflicting injury on his chest. The aforesaid aspects of case creates serious doubt about the prosecution case and complicity of the appellant in the occurrence. Appellant has no criminal antecedent and has been languishing in custody since 28.11.2018.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the above named appellant is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Bhojpur at Ara in connection with SC/ST Case No.350 of 2018, arising out of Sikarahata P.S. Case No. 89 of 2018

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

(Prakash Chandra Jaiswal, J)

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