

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3131 of 2019

Arising Out of PS. Case No.-5 Year-2019 Thana- DEEPNAGAR District- Nalanda

Siya Gope Son of Late Badri Gope Resident of Village - Maghra Sarai, P.S.-
Deepnagar, Distt – Nalanda.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Kumar Thakur

Mrs. Babita Kumari

For the Respondent/s : Mrs. Usha Kumari 1

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

ORAL ORDER

3 05-09-2019 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 of anticipatory bail
vide order dated 02.05.2019 passed by learned 1st Addl. Sessions
Judge, Nalanda at Biharsharif in Deepnagar P.S. Case No. 5 of
2019 registered under Sections 147, 148, 149, 341, 307, 302 of
the Indian Penal Code, Section 27 of the Arms Act and Sections
3(1)(r)(s) & 3(2)(v) of the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act.

While the informant and his uncle Indal Paswan
were regressing to their house from the feast, five named and



10-15 unknown miscreants, who were waylaying them started slating the informant in the name of his caste, and on the exhortation of co-accused Arunesh Yadav, accused Photo Yadav resorted firing on the chest of his uncle. Other accused persons also resorted indiscriminate firing and his uncle 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. Only allegation levelled against the appellant is of slating the informant in the name of his caste resorting firing. Aforesaid allegation is not specific rather general and omnibus in nature. There were around 20 persons present at the place of occurrence but the informant has not stated in specific as to who slated him in the name of his caste. Though, the informant has claimed himself to be eyewitness of the occurrence, but witnesses in the case diary including the family members of the deceased have stated about learning of the occurrence on the following day. As per the FIR, Photo Yadav resorted firing upon the uncle of the informant but co-accused Raju in his confessional statement claimed himself to be his assailant. However, the appellant does not happen to be assailant. Doctor conducting autopsy of the cadaver of the deceased has found only one firearm injury on



the chest of the deceased.

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

In the facts and circumstances of the case, let the above named appellant be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Addl. Sessions Judge, Nalanda at Biharsharif in connection with Deepnagar P.S. Case No. 5 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Prakash Chandra Jaiswal, J)

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