

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.709 of 2020**

Arising Out of PS. Case No.-93 Year-2019 Thana- MAHESHKHUNT District- Khagaria

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RUPESH KUMAR Son of Bhadai Yadav Resident of Village - Madarpur,
P.S.- Maheshkhut, District- Khagaria

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Pranav Kumar

For the Respondent/s : Mr.Sadanand Paswan, Spl. PP

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

3 01-06-2020 Heard learned counsel for the parties.

This appeal has been preferred under Section 14A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as ‘the Act’), putting to challenge an order dated 06.01.2020 passed by learned Additional Sessions Judge-1, Khagaria in Maheshkhut P.S. Case No. 93 of 2019 registered for the offences punishable under Sections 307,506/34 of the Indian Penal Code and Section 3(ii) (v) of the Act as well as Section 27 of the Arms Act.

The prosecution case as narrated in the First Information Report is that on 06.08.2019 when the informant was crossing national highway with his father, four persons,



who are named in the First Information Report including the appellant, came in two *Apache* motorcycles and surrounded both of them. It is alleged that co-accused Nitish Kumar opened fire on the informant, which did not hit him he narrow escaped. The appellant also shot a fire, but again the informant narrowly escaped. There is allegation against co-accused Kundan Kumar and Rupesh Kumar also of having opened fire. The informant is said to have received injuries.

Learned counsel for the appellant has submitted that the appellant has been falsely implicated in the case and no injury is attributable to the shot allegedly fired by him. He contends that the allegation that the appellant ever opened fire is incorrect. The appellant is said to be in custody since 14.11.2019. In respect of the appellant's antecedent of his involvement in three other cases, learned counsel appearing on behalf of the appellant has submitted that in the first case, he has been acquitted and the second matter has been compromised.

Considering the facts and circumstances, in my opinion, it was a fit case where the appellant ought to have been released on bail in the absence of any material that he would have been tampering with the evidence and there was



any chance of tampering with the evidence or the prosecution.

The impugned order dated 06.01.2020, requires interference and is accordingly set aside.

This appeal is allowed.

Let the above-named appellant be released on bail on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I, Khagaria in Maheshkhut P.S. Case No. 93 of 2019.

(Chakradhari Sharan Singh, J)

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