

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.937 of 2020

Arising Out of PS. Case No.-240 Year-2019 Thana- SONBERSA District- Sitamarhi

MUKESH SAH @ CHONAHAWA @ CHONAHAMA, aged about 28 years,
Male, Son of Ramchandra Sah, Resident of Village - Musaharnia, P.S.-
Sonbarsa, Dist.- Sitamarhi.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant	:	Mr.Sunil Prasad Singh, Advocate.
For the Respondent	:	Mr.Sadanand Paswan, A.P.P.
For the Informant	:	Mr. Alok Kumar Jha, Advocate.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 01-06-2020 Due to COVID-19 Pandemic, the matter is being
taken up by way of virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsels for the parties.

The matter relates to grant of bail to the appellant in
connection with Sonbarsa P.S. Case No. 240 of 2019 registered
for the offences under Sections 341, 323, 109, 302/34 of the
IPC, 27 of the Arms Act and 3(2)(v) of SC/ST Act.

The prosecution case, in short, is that on 02.11.2019 at
10.00 P.M. the informant alongwith his brother Rakesh Kumar
were going to see *Chhath Ghat* on Motorcycle and when they
reached near Kabir Math at Village-Musharniya at about 10-15



P.M., 5-6 persons surrounded them. Out of whom, he identified Bablu Mahto, Mukesh Sah @ Chonahawa (petitioner) and Raju Kumar started to assault them and accused Bablu Kumar fired from his pistol upon his brother Rakesh Kumar on his right side Kanpatti due to which he sustained firearm injury and fell down and became unconscious. The accused persons fled away. Nearby persons and the informant took the injured to Sitamarhi for treatment but in the way, injured died. The doctor of Sadar Hospital, Sitamarhi declared him dead.

It has been submitted on behalf of the appellant that the appellant is in custody since 05.11.2019 and has got no criminal antecedent. Charge sheet has been submitted in this case. There is no allegation of tampering with the witnesses alleged against the appellant. The specific allegation of assault is against Bablu Mahto. The appellant is said to be the member of unlawful assembly. No overt act is alleged against the appellant.

On behalf of the State, it is submitted that the appellant is named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 22.01.2020, passed by learned Ist A.D.J.-cum-Special Judge (SC/ST Act), Sitamarhi in connection with



Sonbarsa P.S. Case No. 240 of 2019, is set aside. The criminal appeal is allowed.

Further, the appellant, above named, is directed to be released on bail on his personal bond to the satisfaction of learned Ist A.D.J.-cum-Special Judge (SC/ST Act), Sitamarhi in connection with Sonbarsa P.S. Case No. 240 of 2019.

Once the normalcy is restored, the appellant shall furnish bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of four weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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