

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1196 of 2020**

Arising Out of PS. Case No.-162 Year-2017 Thana- GOPALPUR District- Gopalganj

BINDA THAKUR S/o Late Dudhnath Thakur R/o village- Dharampur, P.S.-
Gopalpur, District- Gopalganj

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Harendra Prasad
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

2 03-06-2020 Heard the learned counsel for the appellant and Sri
Binay Krishna, the learned Spl.P.P. for the State.

The present appeal is directed against the order dated 13.02.2020, passed in connection with Gopalpur PS case no. 162 of 2017 registered for the offences punishable under Sections 341, 323, 307, 504/34 of Indian Penal Code, Section 27 of Arms Act and Sections 3(l)(c)(r), 3(2)(v) of SC/ST (Prevention of Atrocities) Act, whereby and whereunder the regular bail of the appellant has been rejected by learned 1st Additional Sessions Judge, Gopalganj.

The case of the prosecution in brief is that on 30.11.2017 at about 9 am in the morning, the goat of the informant started eating the bundle of paddy of the appellant herein, whereafter the niece of the informant namely Nisha



Kumari went to bring the goat, however the appellant and one another started abusing and assaulting the niece of the informant. Subsequently, the informant had arrived at the said place of occurrence for the purposes of saving her niece, whereupon the appellant had fired gun shots from his pistol which had hit one Parvati Devi and the co-accused person namely Kanhaiya Thakur had hit the informant by farsa and other co-accused person namely Ranjit Thakur had hit the informant by means of *bhala*.

The learned counsel for the appellant has submitted that the appellant is innocent, has been falsely implicated in the present case. It is further submitted that the petitioner is having a clean antecedent and is languishing in custody since 05.12.2018. It is further submitted that there is no injury report of Parvati Devi on record, hence the allegation is false and concocted.

Per contra, the learned Spl.P.P. for the State has vehemently opposed the prayer for bail and has submitted that a bare perusal of judgment dated 10.10.2018 passed in Cr. Appeal(S.J.) no. 3278 of 2018, which was filed against the order of the learned trial court refusing to grant anticipatory bail, would show that the appellant had caused firearm injury at



the abdomen of Parvati Devi and the doctor had found one circular hole in the abdomen of the said Parvati Devi. It is further submitted that the appellant has suppressed the fact that he is a convict in a case under Section 302 of Indian Penal Code and the said conviction was awarded in connection with Bishambharpur PS case no. 32 of 1990. It is also submitted that the aforesaid order of this Hon'ble Court dated 10.10.2018 would show that the petitioner is also an accused in Bishambharpur PS case no. 29 of 1990.

I have heard the learned counsel for the parties and gone through the materials on record as also perused the impugned order dated 13.02.2020, passed by the learned 1st Additional Sessions Judge, Gopalganj, from which it is also apparent that trial is going on and five witnesses have already been examined on behalf of prosecution and only four witnesses are yet to be examined on behalf of prosecution as per the charge-sheet and further, it is also clear that the injury report is on record which shows a circular hole on the abdomen of the injured Parvati Devi. Moreover, the materials available in the case diary also shows the complicity of the petitioner in the alleged crime.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel



for the parties and taking into account the facts recorded in the impugned order dated 13.02.2020, as aforesaid, apart from the fact that the petitioner has suppressed the material facts, I do not find the present case to be a fit case for grant of regular bail, hence the present petition stands dismissed.

The appeal stands dismissed.

(Mohit Kumar Shah, J)

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