

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1587 of 2020

Arising Out of PS. Case No.-41 Year-2020 Thana- CHHATAPUR District- Supaul

KUSHESHWAR MANDAL Son of Gohal Mandal Resident of Village-
Sahpur, P.S.- Chhatapur, District- Supaul.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Prafull Chandra Thakur, Adv.

For the Respondent/s : Mrs. Usha Kumari, no. 1, Spl.P.P..

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 07-12-2020 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State, through video
conferencing.

The instant appeal has been filed by the appellant against the order dated 25.2.2020 passed by the learned Additional Sessions Judge-1st-cum-Special Judge, Supaul whereby the prayer for bail of the appellant in connection with Chhatapur P.S. Case No. 41 of 2020 registered under sections 307 and other sections of the Indian Penal Code, section 27 of the Arms Act and section 3(1)(x) of the SC & ST (Prevention of Atrocities), Act was rejected.

As per allegation in the FIR, while the informant and members of his family were sleeping in their house, it is stated



that 17 named accused persons including the appellant herein alongwith others forcibly entered into the house, started to abuse them and also assaulted them. It is stated that various articles were looted including Rs.90,000/- in cash and on the informant resisting, the accused persons fired upon him as a result of which, his bhabhi sustained serious injuries in her temple.

It is submitted by learned counsel for the appellant that the allegations as levelled in the FIR are false and concocted. The appellant has been falsely implicated in the case because of pending land dispute between the parties and the allegations are general and omnibus in nature. The appellant is in custody since 18.2.2020 and has no criminal antecedent.

The application for bail is opposed by learned Spl. P.P. for the State.

The case diary called for in the case has been received.

Having heard learned counsel for the parties and on going through the material that has transpired in course of investigation, it appears that the witnesses in their statement under section 161 Cr.P.C. have stated that the accused, who fired, was Lakshmi Yadav and not the appellant herein. Taking into consideration the facts and circumstances of the case



including the appellant being in custody since 18.2.2020, the Court is inclined to allow this appeal. The appeal is allowed and the order dated 25.2.2020 passed by the learned Additional Sessions Judge 1st -cum-Special Judge, Supaul is set aside.

The appellant is directed to be enlarged on bail in connection with SC/ST Case no. 19 of 2020 (arising out of Chhatapur P.S. Case No. 41 of 2020) 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 Additional Sessions Judge-1st-cum-Special Judge, Supaul.

(Partha Sarthy, J)

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