

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1636 of 2020

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

Photo Yadav @ Ramesh Kumar S/o Kailu Yadav @ Ramesh Kumar R/o
Village- Kako Bigha, P.S.- Deepnagar, District- Nalanda.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Adv. Mr. Raj Kishor Prasad, Adv.
For the Respondent/s	:	Smt. Usha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 22-12-2020 Heard learned counsel for the appellant and learned
Spl.P.P. for the State through video conferencing.

The instant appeal has been preferred against the order dated 27.5.2020 passed by the learned 1st Additional District and Sessions Judge, Nalanda at Biharsharif whereby the prayer for bail of the appellant in connection with Deepnagar P.S. Case No.5 of 2019 registered under section 302 and other sections the Indian Penal Code, section 27 of the Arms Act and section 3(1)(r)(s) and section 3(2)(v) of the SC and ST (Prevention of Atrocities) Act, was rejected.

As per allegation in the F.I.R. the informant was returning with his uncle after attending the Bhoj ceremony. It is stated that the accused persons variously armed were waiting for



them. They started to abuse the informant and his uncle, surrounded them and it is further stated that on the orders of Arunesh Yadav, the appellant herein fired on the uncle of the informant hitting him in his chest. The other accused persons also fired on the informant's uncle.

It is submitted by learned counsel for the appellant that while the occurrence is alleged to have taken place on 1.1.2019, inspite of the distance to the police station being only 4 kilometers, information was given to the police on 2.1.2019. Further referring to the statement of the witnesses recorded in course of investigation including the wife and other family members of the deceased as also the independent witnesses whose statements have been recorded under section 161 Cr.P.C., it is submitted that the witnesses have stated that there was dispute between the deceased and accused over drinking of toddy. It is thereafter stated by the witnesses that it was Raju Lal who assaulted the uncle of the informant and not the appellant herein. It is further submitted that the said accused Raju confessed to his guilt and it was as a result of the said confession that the fire arm stated to have been used in commission of the crime was recovered. The appellant is in custody since 20.1.2020 and investigation in the case has



concluded.

The appeal is opposed by learned Spl.P.P. for the State.

Having heard learned counsel for the parties and having gone through the materials available on record including the case diary as also the postmortem report it transpires that there is specific allegation in the F.I.R. by the informant who was accompanying his uncle that it was the appellant herein who shot his uncle in his chest. The said allegation is supported by the postmortem report as also the witnesses in course of investigation.

In view of the facts and circumstances of the case, the Court is not inclined to allow the instant appeal and the same is rejected.

(Partha Sarthy, J)

Bibhash/-

U		T	
---	--	---	--

