

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1789 of 2020

Arising Out of PS. Case No.-74 Year-2020 Thana- JAGDISHPUR District- Bhagalpur

KISHORE YADAV @ NAND KISHORE YADAV Son of Rajendra Yadav
Resident of Village - Gangti, P.S. - Goradih (Jagdishpur), District - Bhagalpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Apurva Kumar, Advocate

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

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 27-11-2020 Heard learned counsel for the appellant and learned Spl. PP for the State through video conferencing.

The instant appeal has been preferred by the appellant against the order dated 16.6.2020 passed by the learned Additional Sessions Judge III -cum-Special Judge, SC/ST Act, Bhagalpur whereby the prayer for bail of the appellant in connection with Jagdishpur (Goradih) P.S. Case no. 74 of 2020 registered under sections 323, 341, 379, 506 and 34 of the Indian Penal Code and section 3(1)(r)(s) and 3(2)(v)(a) of the SC/ST(POA) Act, was rejected.

As per allegation in the FIR, the four named accused persons variously armed came and started to fire. It is further stated that the appellant thereafter struck with a pistol below the eyes of the informant as a result of which he sustained injury and started to bleed. It is further stated that the informant was abused in the name of his caste and the accused persons took away Rs.7,000/-.



It is submitted by learned counsel for the appellant that the allegations as levelled in the FIR are false and malicious. Admittedly no person has sustained any firearm injury. Referring to the order of the learned Court below it is submitted that the so called injury sustained by the informant has been opined to be simple in nature. It is further submitted that on earlier occasion the appellant had been falsely implicated in some cases and the reason for his false implication in the instant case is also the pendency of the earlier case. It is submitted that the appellant is in custody since 9.5.2020 and the investigation in the case has concluded.

The appeal is opposed by learned Spl. PP appearing for the State who submits that not only the appellant is named in the FIR but there is direct allegation against him of having assaulted the informant which is supported from the injury report. It is submitted that the appellant had three earlier cases of which one is also under the SC/ST Act.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case including the injury on the informant having been found to be simple in nature, charge sheet having been submitted in the case and the appellant being in custody since over six months, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated 16.6.2020 passed by the learned Additional Sessions Judge III-cum-Special Judge, SC/ST Act, Bhagalpur in connection with Jagdishpur (Goradih) P.S. Case no. 74 of 2020 is hereby set aside.



The appellant is directed to be enlarged on bail in connection with Jagdishpur (Goradih) P.S. Case no. 74 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 Additional District and Sessions Judge III-cum-Special Judge, SC/ST Act, Bhagalpur.

(Partha Sarthy, J)

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