

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1784 of 2020

Arising Out of PS. Case No.-251 Year-2018 Thana- BARHARA KOTHI District- Purnia

JHAKAS MEHTA Son of Sugdeo Mehta R/O Rajganj, P.S. - Bihariganj,
District - Madhepura.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ashok Kumar Jha, Advocate
For the Respondent/s : Mr.Binay Krishna, 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 25.2.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea whereby the prayer for bail of the appellant in connection with Barhara Kothi P.S. Case no. 251 of 2018 registered under section 307 and other sections of the Indian Penal Code, section 27 of the Arms Act and section 3 (2) (v) of the SC/ST(POA) Act to which section 302 of the Indian Penal Code was added subsequently, was rejected.

As per allegation in the FIR, it is stated that the accused persons including the appellant herein, one Umesh Mehta besides others came variously armed, started to push the informant and destroyed her crops. Thereafter in the indiscriminate firing made by them one bystander was killed.



It is submitted by learned counsel for the appellant that the allegations as levelled in the FIR are false and concocted. The case of the appellant stands on a similar footing to that of co-accused Umesh Mehta who has been enlarged on bail vide order dated 5.6.2020 (Annexure 3) passed in Cr. Appeal (SJ) no. 241 of 2020. Referring to the order as contained in Annexure 3 which was passed after perusal of the case diary, it is further submitted that there was land dispute between the accused persons as well as the prosecution party and the maternal grand mother of the deceased whose statement has been recorded in paragraph 58 of the case diary has stated that firing from two sides were going on in which Radha Devi sustained injury. It is further submitted that no specific overt act has been alleged against the appellant who has no criminal antecedent. The appellant is in custody since 25.2.2020.

The appeal is opposed by learned Spl. PP appearing for the State submitting that there was indiscriminate firing by the accused persons including the appellant herein leading to the death of one person.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the submissions made on behalf appellant together with grant of bail to co-accused Umesh Mehta, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated 25.2.2020 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act in connection with Barhara Kothi P.S. Case no. 251 of 2018 is hereby set aside.



The appellant is directed to be enlarged on bail in connection with Barhara Kothi P.S. Case no. 251 of 2018 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 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea.

(Partha Sarthy, J)

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