

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1508 of 2020

Arising Out of PS. Case No.-338 Year-2020 Thana- ARA NAWADA District- Bhojpur

Md. Sammi S/o Fulan Miyan Resident of Mohalla-Jawahar Tola, P.S.-Ara
Nawada, District-Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ravindra Kumar

For the Respondent/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 25-09-2020 The matter has been taken up through virtual

Court proceeding.

Since the Court proceeding is non-functional in

physical mode due to present pandemic COVID-19, the

matter is listed with defects.

Learned counsel for the appellant undertakes to

remove the defects within three weeks of resumption of

Court proceedings.

In case of non removal of the defects within

undertaken period, the office shall place the matter

before the bench.

Heard learned counsel for the appellant and

learned Special P.P. for the respondent-State.

The present appeal has been preferred on

behalf of the appellant for setting aside the order dated



25.05.2020 passed by learned 1st Additional Sessions Judge, Bhojpur at Ara whereby the appellant's prayer for bail in connection with SC/ST Case No. 80 of 2020, arising out of Ara Nawada P.S. Case No. 338 of 2020, registered for the offences punishable under Sections 307/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(1)(r)(s), 3(2)(v)(a) of SC/ST (Prevention of Atrocities) Act has been rejected.

The prosecution case, as per the fardbeyan of Vinod Paswan, recorded by S.I. of Police Manish Kumar Singh on 21.04.2020 at 4:00 P.M in Sadar Hospital, Surgical Ward, Ara is to the effect that on 21.04.2020 at 2:30 P.M. while the informant was standing near a bamboo breaker installed in Pandemic COVID-19, sister of the appellant tried to cross the barricade and when the mother of the informant forbade the appellant's sister, she abused her by calling caste name. It is further alleged that thereafter father of the appellant Fulan Mian came out from the house and instigated the



appellant to fire upon the family members of the informant, whereupon the appellant resorted to fire from the rooftop causing injury on the thigh of the informant. The appellant thereafter came down and again fired which caused injury to Sunil Paswan on his left ankle.

It is submitted by learned counsel for the appellant that accusation under the SC/ST Act, particularly, abusing the informant by calling his caste name has not been levelled against the appellant and for a petty dispute, the accusation has been levelled. From the impugned order, it does not appear that grievous injury has been caused to the informant and other family members. A statement has been made in para 3 of the petition that appellant is not having any criminal antecedent.

The appellant is in custody since 21.04.2020.

Learned A.P.P. submits that there is specific accusation of making a gunshot firing against the appellant.



Considering the genesis of the occurrence being a petty dispute, investigation having been concluded and the fact that the appellant is not having any criminal antecedent, the order dated 20.05.2020 passed by learned 1st Additional Sessions Judge, Bhojpur at Ara is, hereby, set aside and the appellant above named is directed to be released on bail for a period of three months for the present on furnishing one surety to the satisfaction of the learned 1st Additional Sessions Judge, Bhojpur at Ara in connection with SC/ST P.S. Case No. 80 of 2020, arising out of Ara Nawada P.S. Case No. 338 of 2020.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety to the learned Court concerned through e-mode.



The provisional bail of the appellant will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Bhojpur at Ara in connection with SC/ST P.S. Case No. 80 of 2020, arising out of Ara Nawada P.S. Case No. 338 of 2020.

The learned Court below is at liberty to further extend the period of provisional bail if the lock down is not over in next three months.

If the appellant defaults for two consecutive occasions during trial, learned Trial Court will be at liberty to cancel the bail bonds of the appellant.

Accordingly, the appeal is allowed.

(Dinesh Kumar Singh, J)

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