

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 1678 of 2020

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

1. Bipat @ Rajesh Mehta @ Rajesh Kumar Son of Late Sugdeo Mehta R/o Village- Rajganj, P.S.- Bihariganj, District- Madhepura.
2. Suraj Mehta @ Yogendra Mehta Son of Bipat @ Rajesh Mehta @ Rajesh Kumar R/o Village- Rajganj, P.S.- Bihariganj, District- Madhepura.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Jha, Adv.

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

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 02-12-2020 Heard learned counsel for the appellants and learned Spl.P.P. for the State through video conferencing.

The instant appeal has been preferred 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 appellants in connection with Barhara (Raghubansh Nagar) 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(ii)(v) of the SC/ST (Prevention of Atrocities) Act, to which section 302 of the Indian Penal Code was added subsequently, has been rejected.

As per allegation in the F.I.R. while the informant and



others were harvesting their crops on their land which they have been cultivating for the last 10 years, it is stated that the 8 named accused persons including the two appellants herein as also one Umesh Mehta came variously armed and started to fire indiscriminate. In the firing one person namely Rudha Devi who was standing at some distance sustained firearm injuries and was seriously injured.

It is submitted by the learned counsel for the appellant that the allegation as levelled in the F.I.R. are false and malicious. The appellants have been falsely implicated in the case due to pending land dispute between the parties. The said Rudha Devi died in course of treatment and section 302 of the Indian Penal Code was added. It is further submitted that the case of the appellants stand on a similar footing to that of co-accused Umesh Mehta who has been enlarged on bail by order dated 5.6.2020 (Annexure-3) passed in Cr.Appeal (SJ) No.241 of 2020. Referring to the said order it is submitted that the grand mother of the deceased Rudha Devi whose statement had been recorded in paragraph 58 of the case diary has stated that firing was taking place from two sides in which Rudha Devi sustained injuries. No specific overt act has been alleged against the appellants. The appellants have no criminal antecedent and are



in custody since 25.2.2020.

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

Having heard learned counsel for the parties and taking into consideration the submissions made on behalf of the appellants, the appellants being in custody since 25.2.2020 and grant of bail to co-accused Umesh Mehta, the Court is inclined to allow the 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, Purnea, is set aside.

The appellants are directed to be enlarged on bail in connection with Barhara (Raghubansh Nagar) P.S. Case No.251 of 2018 on each of them 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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