

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5384 of 2019**

Arising Out of PS. Case No.-8 Year-2005 Thana- RAGHOPUR District- Vaishali

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SOHAN GOPE @ SOHAN RAI Son of Chandeshwar Rai Resident of Village
- Sarfabad, Police Station - Raghapur (Rustampur O.P.), District - Vaishali.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Rabindra Kumar Priyadarshi
For the Respondent/s : Mr.Sadanand Paswan

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER**

6 01-06-2020 This appeal was heard at length on 27.5.2020 and has
been placed before this Court today, 'For Orders'.

2. The present appeal has been filed against the order dated
14.10.2019 passed by the learned Additional Sessions Judge-I-
cum-Special Judge, Vaishali at Hajipur in Session Trial No.
191A of 2018 arising out of Raghapur (Rustampur O.P.) P.S.
Case No. 8 of 2005 for offences under Sections 147, 148, 149,
307, 302 of the Indian Penal Code, Section 27 of the Arms Act
and Section 3(x) of the SC/ST Act whereby and whereunder the
prayer of bail of the appellant has been rejected.

3. The case of the prosecution as per the fardbeyan of the
informant, namely, Sanjeevan Bhagat dated 2.2.2005 is that the
work of construction of road from Jafrabad Panchayat Bhawan
Chowk to Damriyahi Ghat Jafrabad Chowk was being carried



out for which soil was being filled and various labours were working under the supervision of one Ashok Rai. Suddenly at about 9 AM. in the morning, the accused persons including the appellant herein came from the eastern side, armed with rifle, carbine etc. and while abusing, stated that the said contract was theirs, hence, how they were working on the road whereupon the co-accused person, namely, Raj Kumar Rai exhorted others to kill them whereafter the appellant herein, armed with rifle in his hand, fired on Arun Bhagat, which hit him on the forehead and he fell there and died. It is further alleged that the co-accused person, namely, Ramnath Rai, armed with rifle in his hand, fired on Ram Parvesh Bhagat, which pierced through his neck and he became grievously injured. The other co-accused persons are then alleged to have started firing from their pistol, rifle, carbine etc. while threatening the prosecution party. On the basis of the fardbeyan of the informant, namely, Sanjeevan Bhagat, as aforesaid, Raghapur (Rustampur O.P.), P.S. Case No. 8 of 2005 was registered under Sections 147, 148, 149, 307, 302 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(x) of the SC/ST Act against the accused persons including the petitioner herein.

4. The learned counsel for the appellant has submitted that



the appellant is innocent and he has been falsely implicated in the present case. It is further submitted that the appellant is languishing in custody since 25.6.2016 and there is no likelihood of completion of the trial in near future inasmuch as till date only three witnesses have been examined, out of which P.Ws-1 and 2 have been declared hostile and P.W.-3 has partly proved the FIR. It is further submitted that a bare perusal of paragraph nos. 9 to 13 of the case diary would show that a general and omnibus allegation has been levelled and there is no specific allegation as against the appellant herein of having killed the deceased, namely, Arun Bhagat. It is also submitted that though the appellant is accused in four other cases, but he is on bail in all the said four cases. Lastly, it is submitted that the co-accused persons have already been granted bail by coordinate Benches of this Court vide order dated 30.6.2010 passed in Criminal Miscellaneous No. 21242 of 2010, order dated 18.3.2017 passed in Criminal Miscellaneous No. 9814 of 2017 and order dated 16.5.2017 passed in Criminal Miscellaneous No. 19223 of 2017.

5. Per contra, the learned Special P.P. for the respondent-State has submitted that the appellant is an FIR named accused person and in the FIR, there is direct allegation as against the



appellant herein of having fired gunshots on the forehead of the deceased Arun Bhagat resulting in his death on the spot. It is further submitted that in paragraph no. 8 of the case diary, the statement of the informant is recorded and in paragraph nos. 9 to 18, the statement of the witnesses are recorded and all of them have supported the contents of the FIR.

6. I have heard the learned counsel for the parties and perused the materials on record including the case diary. This Court finds that the appellant is named in the FIR and it has been specifically alleged that he had fired gunshots on the forehead of the deceased, Arun Bhagat, resulting in his death on the spot. In fact, the post-mortem report dated 2.2.2005 also corroborates the death of the deceased Arun Bhagat on account of bullet injury. This Court further finds from the case diary that there are ample materials therein to prima facie show the complicity of the appellant in the alleged crime and in fact, the police has also found, upon investigation, that the allegations levelled against the appellant are prima facie true. This Court also finds that the appellant is having a bad criminal antecedent inasmuch as four criminal cases are pending against him. As far as grant of bail to the co-accused persons by the coordinate Benches of this Court is concerned, their cases stand on



different footing inasmuch as, in the case of Appellant herein, there is specific allegation of gunshot firing which has led to death of the deceased, Arun Bhagat. This Court also finds that the trial is going on, hence, it would not be in the interest of justice to set the appellant free at this crucial juncture.

7. Considering the aforesaid facts and circumstances of the case, as also the fact that the appellant is having a bad criminal antecedent, there is direct allegation of gunshot firing on the deceased which had resulted in the death of the deceased on the spot, as also taking into account the fact that the trial is going on, apart from the fact that the allegations levelled against the appellant are serious in nature and the appellant is alleged to have committed gruesome murder of the deceased, I do not find any merit in the prayer of the appellant for grant of bail, consequently, the present appeal, being bereft of any merit, stands dismissed.

(Mohit Kumar Shah, J)

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