

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5472 of 2019**

Arising Out of PS. Case No.-256 Year-2016 Thana- BIBHUTIPUR District- Samastipur

NAVNEET SINGH @ CHIKU SINGH @ SITTU SINGH @ AADITYA @
AADITYA VATS @ AADITYA SINGH @ NAVNIT SINGH Son of Sanjay
Singh @ Sanjay Kumar Singh Resident of Village - Mahthi, P.S.- Bibhutipur,
District - Samastipur.

... .. Appellant/s

Versus

THE STATE OF BIHAR Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sada Nand Roy
For the Respondent/s : Mr.Binay Krishna

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

4 29-05-2020 This appeal has been taken up for consideration through the mode of Video conferencing in view of the prevailing lock-down on account of COVID 19 Pandemic, requiring social distancing.

The present appeal has been filed against the order dated 17.10.2019 passed by the learned Additional Sessions and District Judge 1st cum the Court of Judge SC/ST Act, Samastipur in Bibhutipur P.S. Case No. 256 of 2016 registered against the appellant along with other accused persons for offences punishable under Sections 447/307/504/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2) (v) of the SC & ST Act whereby and whereunder the prayer of the petitioner for grant of regular bail has been



rejected.

The brief facts of the case, as per the *fardbeyan* of the informant namely Ganesh Paswan is that on 09.11.2016 at about 3 P.M. in the day time, while he was constructing hut at the door of his house, then four persons on two motorcycle arrived there and thereafter the appellant herein, who was holding a pistol in his hand, started indiscriminate firing whereupon the other co-accused person i.e. son of Sanjay Singh and brother of the appellant exhorted the accused persons to kill the informant, whereupon the appellant came near the informant, however, his sister covered him but still the appellant fired gun shot on the informant. It is further alleged that thereafter the nephew of the brother-in-law of the informant came running towards the informant, however, the appellant and other co-accused persons ran away on their motorcycle while firing gun shot. The informant is stated to have fallen down on the earth and had become unconscious, whereafter, he was taken to the Sadar Hospital, Samastipur. The informant has further alleged that he was eye witness of sipoy Ganesh Kumar murder case, had also deposed in the trial and was also threatened by the accused persons at that time.

The learned counsel for the appellant has



submitted that the appellant is innocent, there is delay in lodging the FIR inasmuch as the occurrence had taken place on 09.11.2016 whereas FIR has been registered on 10.11.2016. It is further submitted that paragraph No. - 2 of the case diary would show that the injured informant is stated to have first been taken to the police station, whereafter the injured was taken to the Primary Health Centre, Bibhutipur and after being administered first aid treatment, the informant was taken to the Sadar Hospital for better treatment, whereupon the informant was taken to PMCH, Patna for further better treatment. It is submitted that though the informant was taken to various places for treatment, however, the injury report is not on record of the case, which shows that a false case been instituted against the appellant and other accused persons. It is further submitted that the appellant is languishing in custody since 27.05.2019. Lastly, it is submitted that though the petitioner is an accused in six other cases, but he is on bail in four of them.

Per contra, the learned Special P.P. for the State has vehemently opposed the prayer for bail and has submitted that the appellant is the main accused and a direct allegation has been levelled against him of having fired gun shot on the



informant of the case.

I have heard the learned counsel for the parties and perused the material on record. This Court finds from a bare perusal of the case diary that there are sufficient materials on record, which have been collected during the course of investigation by the police, to *prima facie* constitute the offence as alleged against the appellant herein and in fact, the police has also upon investigation found the case to be *prima facie* true as against the accused persons including the appellant herein and has also filed a charge sheet under Sections 447/ 307/ 504/ 120B/34 of the Indian Penal Code and Section 27 of the Arms Act as also Section 3(2) (v) of the SC/ST Act.

In fact, a bare perusal of paragraph No.-83 of the second supplementary case diary would show that the injury report of the informant namely Ganesh Paswan was received from PMCH, Patna, which shows penetrating injury/ wound on the left upper arm below shoulder joint as also one more penetrating wound on the upper arm, apart from other wounds, hence, it cannot be said that the injury report is not on record or there is no evidence of penetrating injury on the person of the informant. Nonetheless, it may be stated that a supplementary injury report is also available in paragraph No.-93 of the case



diary and the same is dated 27.02.2020, prepared much after the incident which had taken place on 09.11.2016 and the same mentions the injury of the informant to be simple. This Court is of the opinion that since the said report has been prepared belatedly in the year 2020 pertaining to injury which had taken place in the year 2016, the same would not have much evidentiary value or relevance.

Considering the facts and circumstances of the case, as discussed herein above, taking into account the materials available in the case diary, which *prima facie* definitely makes out a case against the appellant herein for the offences alleged, considering the fact that the appellant is the main assailant and there is direct allegation against him of having fired gun shot on the informant of this case resulting in injury on his person, as also taking into account the bad criminal antecedent of the appellant herein, who is an accused in six other criminal cases, I do not find it just, legal and equitable to release the appellant on bail, hence, the present appeal stands dismissed.

(Mohit Kumar Shah, J)

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