

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1113 of 2021**

Arising Out of PS. Case No.-258 Year-2020 Thana- BATHNAHA District- Sitamarhi

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Madhav Mishra @ Madhvendra Mishra @ Madhavendra Mishra S/O Late
Shyamdeo Mishra R/O Village-Mahjhaulia, P.S. Bathnaha District Sitamarhi

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ritesh Kumar Narain Singh
For the Respondent/s : Mr.Binay Krishna

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2 02-03-2021 Heard learned counsel for the parties.

The present appeal has been filed against order dated 21.12.2020 passed by learned A.D.J.-I cum Special Judge, SC/ST Act, Sitamarhi in Bathnaha P.S. Case No.258 of 2020 registered for the offence punishable under Sections 302/34 of the Indian Penal Code and Sections 3(1)(R)(s)/3(2)(v) of SC/ST Act, whereby the prayer for bail of appellant was rejected.

As per the prosecution case, while the informant alongwith his cousins were going to attend nature's call, they saw 13 FIR named accused persons, including appellant, and ten unknown persons consuming liquor and female dancers were dancing there and accused were misbehaving with the dancers and when it was objected by informant & his brothers, they were abused by Mukhiya Bablu Jha by caste name. Thereafter,



all the accused persons started assaulting them and on instigation of co-accused Bablu Jha, Gulgul Jha (co-accused) fired from his pistol on Avinash Paswan (brother of informant), as a result of which, he died on the spot.

It is submitted on behalf of appellant that appellant has been falsely implicated in this case due to dirty village politics. As per FIR, no specific allegation of assault and abuse has been made against this appellant. Specific allegation of firing is against co-accused Gulgul Jha. The appellant has no criminal antecedent, as stated in paragraph – 3 of the memo of appeal, and he is in custody since 24.11.2020. Chargesheet has been submitted.

Considering the aforesaid facts & circumstances as well as nature of allegation, the impugned order dated 21.12.2020 passed by learned A.D.J.-I cum Special Judge, SC/ST Act, Sitamarhi in Bathnaha P.S. Case No. 258 of 2020 is set aside and appeal is allowed.

Accordingly, let the appellant, above named, be released on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.-I cum Special Judge, SC/ST Act, Sitamarhi in connection with Bathnaha P.S. Case No. 258 of



2020, on following conditions:

“(1) Appellant shall cooperate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present, as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail-bond shall be cancelled by the Court below.

(2) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.”

(Prabhat Kumar Singh, J.)

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