

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2820 of 2021

Arising Out of PS. Case No.-104 Year-2020 Thana- DULHIN BAZAR District- Patna

Dilip Kumar @ Dilip Mahto aged about 41 years (Male) Son of Late Shivram Mahto, Resident of Village + P.O.- Lalabhadsara, P.S.- Dulhin Bazar, Distt.- Patna.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Arun Kumar Pandey
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2. 06-07-2021 Heard learned counsel for the parties through video conferencing.

The present appeal has been filed against order dated 11.11.2020 passed by learned A.D.J.-III cum Special Judge, SC/ST, Patna in Special Case No. 262 of 2020, arising out of Dulhin Bazar P.S. Case No. 104 of 2020, registered for the offence punishable under Sections 307, 302, 34, 120(B) of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i) (r)(s)/3(2)(va) of SC/ST Act, whereby the prayer for bail of appellant was rejected.

As per the prosecution case, on 11.05.2020 at about 8:30 AM, three unknown motorcycle borne miscreants fired upon the informant, but it did not hit him, rather it hit one Dipak



Kumar, who died during course of treatment. It is further alleged that in order to save himself, the informant fled towards the house of his *Mausa* Chitranjan Sharma, whereupon, the miscreants inflicted injury with fire-arm on the leg of *Mausa* of informant. It is further alleged by the informant that these three unknown criminals also killed his uncle Yes Narayan Sharma on 20.12.2017. Thereafter, the informant lodged the present FIR against 15 named persons, which includes appellant.

It is submitted on behalf of the appellant that appellant has been falsely implicated in this case due to previous enmity with regard to land of the '*Ram-Janki Math*'. The FIR has been lodged after much delay and there is no explanation for the same. It is further submitted that father and brother of the deceased have not expressed any suspicion against the appellant and no witness has seen the appellant on spot. During course of investigation also, no tangible evidence has been collected against the appellant. It is further submitted that on perusal of FIR itself, it is apparent that there is no allegation of any abuse by caste name and as such, no case under SC/ST Act is made out against this appellant. The appellant is in custody since 26.06.2020. Chargesheet has already been submitted and investigation is complete.



Considering the aforesaid facts and circumstances, the impugned order is, hereby, set aside and the appeal is allowed.

Accordingly, let the appellant, above named, be enlarged 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.-III cum Special Judge, SC/ST, Patna in connection with Special Case No. 262 of 2020, arising out of Dulhin Bazar P.S. Case No. 104 of 2020.

(Prabhat Kumar Singh, J.)

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