

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3500 of 2021**

Arising Out of PS. Case No.-336 Year-2019 Thana- PATNA CITY CHOWK District- Patna

NITISH KUMAR @ NITISH KUMAR YADAV @ DOMAN Son of Bhola Prasad A resident of Mohalla- Ghora Gali Nehru Tola, P.S.- Chowk, District- Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raj Krishan Jha

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

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

2 07-09-2021 Heard learned counsel for the appellant and the learned Special P. P.

The present appeal has been filed against order dated 31.07.2021 passed by learned Additional Sessions Judge-III-cum- Special Judge, SC/ ST Act, Patna in Special Case No. 502/2019, arising out of Chowk PS Case No. 336/2019, registered for the offence punishable under Sections 302/34 of the Indian Penal Code, and u/s 27 of Arms Act and u/s 3(2) of SC/ST Act, whereby the prayer for bail of the appellant has been rejected.

As per the prosecution case, on the order of co-accused, Anshu Yadav, Hemant Kumar and four unknown persons, co-accused, Anshu Yadav and Hemant Kumar shot the son of informant in his chest and right rib. The son of informant was taken to hospital where he was declared dead by the doctor.

It is submitted that the appellant is not named in the FIR and his name surfaced in this case in the re-statement of the



informant. There is no eye witness of the occurrence and no reason or ground has been shown how the informant came to know about the involvement of this appellant in the occurrence. There is general and omnibus allegation of abuse and assault and no specific overt act has been alleged against this appellant. Specific allegation of firing is against co-accused, Anshu Yadav and Hemant Yadav. The appellant has got clean antecedent and in in custody since 02.12.2019.

Considering the nature of allegation and clean antecedent of the appellant, the impugned order dated 31.07.2021 is hereby set aside and this appeal is allowed.

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 Additional Sessions Judge-III-cum- Special Judge, SC/ST Act, Patna in connection with Special Case No. 502/2019, arising out of Chowk PS Case No. 336/2019.

(Prabhat Kumar Singh, J)

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