

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3697 of 2021**

Arising Out of PS. Case No.-353 Year-2020 Thana- DINARA District- Rohtas

Manish Kumar Singh Son Of Late Ajit Kumar Singh R/O Village- Birikala,
P.S.- Dinara, District- Rohtas (SASARAM)

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mrs.Priyanka Singh
For the Respondent/s : Mr.Binay Krishna

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

2 16-09-2021 This matter is taken up for consideration through
Video Conferencing.

Heard learned counsel for the appellant and the State.

The present memo of appeal has been filed on behalf of the appellant for grant of bail against the order dated 27.04.2021 passed by learned Additional District & Sessions Judge Ist-cum-Special Judge, Rohtas at Sasaram in connection with Dinara P.S. Case No. 353 of 2020 under Sections 302, 120(B)/34 of the Indian Penal Code, section 27 of the Arms Act and section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for bail of the appellant was rejected.

Prosecution case in brief is that on 24.12.2020 at 7.00 pm, this appellant along with four other accused persons came at the door of informant and asked his brother Jitendra Paswan



to accompany them as they had certain work, on this, Jitendra Paswan went with them, but he did not return and his mobile was switched off. Thereafter, informant along with others searched him, but he could not be traced out. On 25.12.2020 in the morning 7.30 am, informant came to know from villagers that a dead body was lying near Shiv temple towards west of village. Informant reached there and saw the dead body of his brother who was murdered by firearm. Informant suspects that due to prior enmity all the accused persons committed murder of his brother by firearm.

It is submitted on behalf of the appellant that informant is not the eye-witness of occurrence and appellant has been made accused in this case only on suspicion. At best, the case against the appellant is of last seen. In fact, co-accused Anish Kumar and Bhola Bhar have lodged case against the informant and his brother (deceased) bearing Dinara PS Case No. 55 of 2020 under Sections 341, 380, 427, 441 of the IPC and Dinara PS Case No. 290 of 2019 under Sections 341, 323, 324, 307, 504, 34 of the IPC and this is the reason the informant has implicated the appellant in the present case only with a view to take revenge. No case under SC/ST Act is made out, as the occurrence has not taken place within public view. Similarly



situated co-appellant has been granted bail by this court vide Cr. APP (SJ) No. 3262 of 2021. Appellant is in custody since 09.02.2021.

Considering the aforesaid facts, this appeal is allowed. The impugned order dated 27.04.2021 passed by learned Additional District & Sessions Judge 1st-cum-Special Judge, Rohtas at Sasaram, is set aside.

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 the learned Additional District & Sessions Judge Ist-cum-Special Judge, Rohtas at Sasaram in connection with Dinara P.S. Case No. 353 of 2020, subject to following conditions:-

(i) The appellant shall co-operate 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 in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

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

(Prabhat Kumar Singh, J)

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