

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4057 of 2021

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

NITIN KUMAR JHA @ GULGUL JHA Son of Late Wakil Jha Resident of
Village- Bhagwanpur, P.S.- Bathnaha, District- Sitamarhi.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Ashhar Mustafa, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 21-10-2021 At the outset, Mr Ashhar Mustafa, learned counsel for the petitioner submits that there is a typographical error in paragraph '3' as regards the status of Bathnaha P.S. Case No. 58 of 2010 and Bathnaha P.S. Case No. 132 of 2011. According to him, it is wrongly stated that in both the cases the appellant has been acquitted. To this effect a supplementary affidavit has also been filed. Let the same be kept on the record.

Heard learned counsel for the appellant and Mr. Binay Krishna, learned Spl.P.P. for the State.

The appellant in the present case is seeking setting aside of the order dated 13.07.2021 passed by learned Special Judge (SC/ST Act)-cum-ADJ-I, Sitamarhi in connection with Bathnaha P.S. Case No. 258 of 2020 registered for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(1)(r)



(s)/3(2)(v) of SC/ST (POV) Act whereby and whereupon prayer for bail of the appellant was rejected.

Learned counsel for the appellant submits that as per the First Information Report the alleged occurrence took place when a dance was going on the DJ set. It is alleged that a group of persons including this appellant had assaulted the brother of the informant. Learned counsel submits that although in the First Information Report there are allegations that this appellant had fired on the chest of the deceased but the fact remains that in the ongoing programme on DJ set there were cross firings and nobody has seen as to whose firing had caused the fatal injury to the deceased.

On the other hand, Mr. Binay Krishna, learned Spl.P.P. for the State submits that after the initial scuffle with the accused persons, it is alleged specifically against this appellant that he had taken out the pistol which he was already possessing and fired on the chest of the brother of the informant causing the fatal injury. His submission is that not only the allegations are serious in nature, there is a direct allegation against the appellant and he is the main assailant, thus, his release on bail would be fatal for the prosecution.

Considering the facts and circumstances of the case,



the seriousness of the allegations showing that the brother of the informant was surrounded by the accused persons including this appellant, he was assaulted and then this appellant took out the pistol from his possession and shot at the brother of the informant, the kind of materials placed before this Court are such that this Court is not inclined to release the appellant on bail. No case for interference with the impugned order is made out. The appeal fails.

Let the trial be expedited.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

