

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.378 of 2022

Arising Out of PS. Case No.-177 Year-2021 Thana- HARNAUT District- Nalanda

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Mallu Ram Son of Late Kazi Ram Resident of Village- Mudhari, P.S. -
Harnaut, District - Nalanda.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sri Bijendra Paswan Son of Late Dewkii Paswan Resident of Village -
Mudhari, P.S. - Harnaut, District - Nalanda.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Indu Bhushan, Advocate.
For the Respondent/s	:	Ms. Usha Kumari 1, APP.
For the Respondent No.2:	:	Mr. Ravindra prasad, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 29-09-2022 Learned counsel for the appellant is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

Heard Mr. Indu Bhushan learned counsel appearing
on behalf of the appellant, Mr. Ravindra Prasad, learned counsel
for informant and learned Spl. PP for the State.

At the outset, learned counsel for the appellant
submitted that due to inadvertence, the correct position with
regard to the criminal antecedent of the appellant could not be
mentioned in paragraph no.3 and as such a supplementary
affidavit has been filed bringing on record the correct position
that the appellant is also involved in two other cases, which has



been mentioned therein.

The present appeal under Section 14(A) (2) of the Schedule Caste and the Schedule Tribe (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'SC/ST Act') has been preferred against the order dated 15.12.2021, passed by learned Additional District & Sessions Judge-III-cum-Special Judge, SC/ST Act, Biharsharif (Nalanda) in connection with SC/ST Case No.98 of 2021, arising out of Harnaut P.S. Case No. 177 of 2021, registered for the offences punishable under Sections 147, 148, 149 and 302 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of the SC/ST Act, whereby the prayer for grant of regular bail of the appellant has been rejected.

As per prosecution case, it is alleged that all the FIR named accused persons including the appellant variously armed came to the house of the respondent no.2 and due to the previous enmity, the appellant ordered his son Shishupal Kumar to kill the brother of the informant, whereupon the said Shishupal kumar fired upon the brother of the respondent no.2 causing his death.

Learned counsel for the appellant submitted that from the FIR, it would be evident that specific allegation of firing has



been alleged against Shishupal kumar, who fired upon the deceased causing his death. So far as, the appellant is concerned, at best he can be said to be an order giver and a member of mob. However, the other co-accused who are said to be members of mob they have already been allowed the privilege of bail by different learned Co-Ordinate Bench of this Court and the copies of which has been annexed as Annexure 2 and 3 of the memo of appeal. He further submitted that admittedly, there is long drawn enmity between the parties and the appellant being father of co-accused Shishupal Kumar, whom there was specific allegation, has been implicated in this case. He also submitted that the appellant is in custody since 16.07.2021.

On the other hand, leaned counsel appearing on behalf of informant-respondent no.2 has vehemently opposed the bail application and submitted that the appellant along with other co-accused in furtherance of common intention entered into the house of the informant/respondent no.2 and shot the brother of the the informant/respondent no.2, resulting into his death. He further submitted that the prayer for bail of co-accused Shishupal Kumar has already been rejected by this court in Cr. APP (SJ) No. 334 of 2022, vide order date 18.08.2022.



Learned Spl. P.P. appearing on behalf of the State has also opposed the present appeal.

Regard being had to the submissions made on behalf of the parties and considering the fact that the nature of allegation made in the FIR and the material available on the record, it appears that at best the appellant can be said to be an order giver and so far as other co-accused persons having more or less identical allegation have been granted privilege of bail by different learned Co-Ordinate Bench of this Court, let the appellant, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District & Sessions Judge-III-cum-Special Judge, SC/ST Act, Bihar Sharif (Nalanda) in connection with SC/ST Case No.98 of 2021, arising out Harnaut P.S. Case No. 177 of 2021, subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.



(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the appellant and in case, at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the appellant. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

Accordingly the impugned order dated 15.12.2021 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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