

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1618 of 2022

Arising Out of PS. Case No.-316 Year-2020 Thana- JAGDISHPUR District- Bhojpur

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Dabbu @ Ramji Singh @ Ramji Kumar @ Bablu Kushwaha Son of Nemi Singh, Resident of Village - Mangura (Siyaruwa), Police Station - Jagdishpur, District - Bhojpur at Ara.

... .. Appellant/s

Versus

1. The State of Bihar
2. Santosh Kumar Paswan Son of Lakshman Paswan, Resident of Vill- Ugna, P.S.- Jagdishpur, Dist- Bhojpur

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ravindra Kumar, Adv.
For the Respondent/s	:	Mr. Binay Krishna, Spl. PP.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 15-11-2022 Heard learned counsel for the appellant and learned Special Public Prosecutor for the State.

The appellant has preferred this appeal against the order dated 13.04.2022 passed by learned 1st Additional District and Sessions Judge-cum-Special Judge, Schedule Caste and Schedule Tribe, Bhojpur at Ara in B.P. No. 2016/2022 whereby the prayer for bail of the appellant in connection with Jagdishpur P.S. Case No. 316 of 2020, lodged under Sections 302/34 of the Indian Penal Code read with Section 27 of Arms Act and Section 3(2)(V) of Schedule Caste and Schedule Tribe Act (Prevention of Atrocities) Act, 1989, was rejected.

As per prosecution case, the present F.I.R. has been

lodged against unknown person by the informant of this case in which he has narrated before the Police that on the yesternight at about 10 p.m. he has visited to the house of Pintu Neta where a hot discussion took place on certain issues. Subsequently he received a call from her cousin that somebody is forcefully moving in the house, it has been alleged that as soon as his brother reached there, the said person fired on the head of his brother and fled away. It has been specifically alleged that he is not aware about the name of said person, as such, F.I.R. has been lodged against unknown.

Learned counsel for the appellant submits that appellant is not named in the F.I.R. He further submits that from the F.I.R., it transpires that the present case has been filed based on hearsay material. He also submits that there is no material found against the appellant. Learned counsel further submits that in the same case the informant has filed a protest-cum-complaint also in which he has categorically figured the name of one Durgesh Kushwaha who fired on the brother of informant in his head on the order of one Bablu Kushwaha.

Learned counsel for the appellant further submits that there is one criminal case pending against the appellant, in which he is on bail. He further submits that appellant is in

custody since 29.03.2022.

Learned Special Public Prosecutor submits that it is true that F.I.R. has been lodged against unknown but in the *fardbeyan* the informant has discloses the name of present appellant that he fired on the deceased.

In the present facts and circumstances of this case and the submissions made above that there are 3 different story which transpires from the version of informant, as per F.I.R. unknown fired, as per protest-cum-complaint one Durgesh Kushwaha fired and as per re-statement the petitioner fired.

In view of the matter, I am inclined to grant bail to the present appellant, let the appellant above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional District & Sessions Judge-cum-Special Judge, Schedule Caste and Schedule Tribe, Bhojpur at Ara in connection with Jagdishpur P.S. Case No. 316 of 2020, subject to the conditions as laid down under Section 437(3) of Cr.P.C.

The order dated 13.04.2022 passed by learned 1st Additional District and Sessions Judge-cum-Special Judge, Schedule Caste and Schedule Tribe, Bhojpur at Ara passed in

B.P. No. 2016/2022 arising out of Jagdishpur P.S. Case No. 316
of 2020 is hereby set-aside.

With this observation, the criminal appeal stands
allowed.

(Dr. Anshuman, J.)

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