

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2076 of 2022

Arising Out of PS. Case No.-71 Year-2022 Thana- DHAMDAHA District- Purnia

1. Manish Singh, S/O Late Mithilesh Singh Resident Of Village- Dhamdaha South, Ward No.01, P.S.- Dhamdaha, District- Purnea.
2. Niraj Singh, S/O Late Madan Singh Resident Of Village- Tarrauni, P.S.- Dhamdaha, District- Purnea.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Singh
For the Respondent/s : Ms. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 21-09-2022 The learned counsel for the appellants seeks permission to withdraw the present anticipatory bail application with respect to appellant no.2 as he has been arrested by the police.

Permission is accorded.

Accordingly, instant appeal is dismissed as withdrawn with respect to appellant no.2.

Heard the learned counsel for the appellant no.1 and the learned Special Public Prosecutor for the State.

The appellant no.1 has challenged the order dated 02.06.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea in connection



with Dhamdaha P. S. Case No.71 of 2022, instituted for the offences under Sections 341, 323, 337, 354, 506/ 34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(i)(r)(s) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, whereby his prayer for grant of anticipatory bail has been rejected.

The learned counsel for the appellant no.1 submits that appellant no.1 has antecedent of five cases, but all the cases have been instituted by the present informant himself and the informant alleges that on 10.04.2022, 12-15 accused variously armed came in 5-6 vehicles and abused the informant and asked to vacate the land when informant along with others started opposing, the accused started firing, thereafter pelted stones injuring his son and even assaulted woman and tried to capture the land, but were unsuccessful due to intervention of the administration. It is next alleged that the occurrence was planned by the appellant and Niraj Singh, who earlier with the help of Bittu Singh's gang had tried to capture the land.

The learned counsel for the appellant submits that from bare perusal of the allegation as alleged in the F.I.R., it would manifest that the allegation does not inspire



confidence for the reason that the informant alleges that when the dispute arose, the same was settled on account of timely intervention of the administration, but no case came to be instituted. This amply demonstrates that the informant by way of after thought has instituted the present F.I.R. or else if any occurrence as alleged would have taken place, then the District Administration would have instituted an F.I.R. or would have arrested the accused persons. It is next submitted that even the allegation of firing is not corroborated as no pellets were found from the place of occurrence. It is next submitted that if the accused were carrying gun where was the use of pelting stones causing injury to the son and women folk of the informant's family. It is next submitted that from tenor of the allegation, it appears that the appellant was not even present at the place of occurrence and his name transpired based on suspicion. It is also submitted as aforesaid that the informant is continuously trying to implicate the appellant in some or the other case and till date, has already filed five cases excluding the present one.

Regard being had to the aforesaid submissions, the order dated 02.06.2022 is set-aside.



The appeal stands allowed.

The appellant no.1, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs.5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Purnea in connection with Dhamdaha P. S. Case No.71 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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