

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3305 of 2022

Arising Out of PS. Case No.-311 Year-2022 Thana- DUMRA District- Sitamarhi

=====

Jitendra Kumar, S/O Vinod Ray, Resident of village- Vishwanathpur, Ward No- 03, P.S.- Dumra, District- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kanhaiya Prasad, S/O Ram Girdhori Ram, Permanent Address R/o Village and P.O.- Jamuawn, P.S.- Piro, District- Bhojpur at present posted at Bagmati Sub Divisional Officer, Sitamarhi, District- Sitamarhi.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr.Ritesh Kumar Narain Singh, Advocate
For the Respondent/s	:	Mr.Binay Krishna, Spl.PP
For the Respondent No.2	:	Mr. Lalit Narayan Jha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 22-12-2022

Heard learned counsel for the appellant and learned Spl.PP for the State as well as learned counsel for the informant.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail by order dated 31.08.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST(POA) Act, Sitamarhi in connection with Dumra P.S. Case No. 311 of 2022, registered for the alleged offences under Sections 307, 504 and 506/34 of



the Indian Penal Code, Section 27 of the Arms Act and Sections 3 (1)(r)(s) and 3 (2) (va) of the Scheduled Castes and Scheduled Tribes (POA) Act.

As per the prosecution case, the informant has been working as Sub-Divisional Officer in Bagmati Sub-Division, Sitamarhi and the allegation against the appellant is that he along with co-accused came and demanded bags which were to be used for keeping at the embankment and on refusal of the informant the appellant fired upon him with his pistol. The first shot missed the informant whereas while firing the second shot, the co-accused Vikash Kumar caught hold of the arm of the appellant and the shot hit the wall.

The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. The prosecution story is not believable that the informant has not sustained any firearm injury even when two shots were fired aiming the informant. Learned counsel further submits that the dispute over bags to be kept over the embankment is clear from the FIR. There is no intention to cause death and if the appellant was using a pistol, he could have easily killed the informant. The appellant is in custody since 14.07.2022 and the charge sheet has been submitted in this case.



Learned Spl.PP as well as learned counsel for the informant oppose the submission made on behalf of the appellant. Learned counsel submits that the appellant is having a number of cases pending against him and he is a habitual offender. Learned counsel further submits that a damaged bullet was recovered from the place of occurrence and it shows that the appellant fired from his pistol.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the period of custody of the appellant along with submission of charge sheet against him, the appellant above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi in connection with Dumra P.S. Case No. 311 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.



(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Arun Kumar Jha, J)

balmukund/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.12.2022
Transmission Date	23.12.2022

