

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.51 of 2023

Arising Out of PS. Case No.-104 Year-2020 Thana- DULHIN BAZAR District- Patna

RAM GOPAL MAHTO @ MISHRI MAHTO @ GOPAL PRASAD Son of
Prem Prasad R/v- Lal Bhadsara, P.S.- Dulhin Bazar, District- Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. LAL BAHADUR PASWAN Son of Late Hazari Paswan R/v- Kasim Chak,
P.S.- Dulhin Bazar, District- Patna
3. DHARMENDRA KUMAR Son of Shyam Charan Mistri R/v- Lal Bhadsara,
P.S.- Dulhin Bazar, District- Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rakesh Kumar, Advocate

For the State : Mr. Sadanand Paswan, Spl. P.P.

For the Respondent Nos. 2 & 3 : None

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 12-05-2023 Despite service of notice validly served upon

Respondent Nos. 2 and 3, no one appears on behalf of the

Respondent Nos. 2 and 3.

Heard learned counsel appearing for the appellant and

learned Special Public Prosecutor for the State.

This is an appeal under Sections 14(A)(ii) of the

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act (hereinafter referred to as the "SC/ST Act") against the

refusal of prayer for regular bail vide order dated 09.11.2022

passed by the learned Special Judge, SC/ST, Patna in connection

with Special Case No. 262 of 2020 arising out of Dulhin Bazar P.S.

Case No. 104 of 2020, F.I.R. dated 11.05.2020 registered under

Sections 307, 302, 34, 120(B) of the Indian Penal Code, Section



27 of the Arms Act and later on Sections 3(1)(v)(s)/3(2)(va) SC/ST Act.

The prosecution case, in short, is that while the informant was going to purchase some agriculture tools and was returning back, three unknown persons fired upon the informant who after leaving the motorcycle fled away and due to such firing, one passerby namely Deepak Kumar received bullet injury, as a result of which, he died in the hospital during course of treatment.

Learned counsel for the appellant submits that the appellant is innocent and he has been falsely implicated in the present case due to admitted land dispute. He further submits that it appears from the F.I.R. that there is no allegation of any assault or overt act attributed against the petitioner rather there is allegation only on the basis of suspicion and also it appears from the F.I.R. that the allegation of firing attributed against unknown persons. He further submits that similarly situated co-accused persons namely Prem Vishwakarma @ Premnath Vishwakarma, Sunil Vishwakarma and Santosh Kumar have been granted bail by a Coordinate Bench of this Court vide order dated 06.07.2021 passed in Cr. APP (SJ) No. 111 of 2021, another co-accused person namely Dinesh Kumar @ Dinesh Mahto has been granted bail by a Coordinate Bench of this Court vide order dated 07.07.2021 passed in Cr. APP (SJ) No. 160 of 2021, another co-



accused person namely Baskit Mahto has been granted bail by a Coordinate Bench of this Court vide order dated 09.07.2021 passed in Cr. APP (SJ) No. 2435 of 2021, another co-accused person namely Dilip Kumar @ Dilip Mahto has been granted bail by a Coordinate Bench of this Court vide order dated 06.07.2021 passed in Cr. APP (SJ) No. 2820 of 2021 respectively. He further submits that the police after investigation submitted chargesheet against the appellant and the appellant is in custody since 24.09.2022.

Learned Special Public Prosecutor for the State, on the other hand, has vehemently opposed the prayer for bail of the appellant and submits that the petitioner carries four more cases other than the present one but fairly submits on the basis of paragraph-3 of the petition that all the cases pertaining to land dispute concerning the Ram Janki Hanuma Ji of Village Lala Bhadsara a Public Trust.

Considering the facts and circumstances of the case, let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST, Patna in connection with Special Case No. 262 of 2020 arising out of Dulhin Bazar P.S. Case No. 104 of 2020, with the following conditions :-

(1) Appellant shall co-operate in the trial and shall be



properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(2) If the appellant tampers with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that 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 step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

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

(Rajesh Kumar Verma, J)

Ibrar//-

U			
---	--	--	--

