

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1685 of 2024

Arising Out of PS. Case No.-190 Year-2023 Thana- NAGARNAUSA District- Nalanda

Somnath Prasad Son of Kishori Prasad R/o village Khiru Bigha, P.S
Nagarnausa, District Nalanda

... .. Appellant/s

Versus

1. The State of Bihar
2. Ramashish Paswan Son of Bundela Paswan R/o Village Daha Bigha, P.S-
Hilsa, District Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manoranjan Kumar, Adv.
For the State	:	Mr.Sadanand Paswan, SPP
For the Resp. No.2	:	None

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 27-06-2024 The instant appeal has been heard along with Cr.

Appeal (SJ) No. 1984 of 2024 arising out of the same

Nagarnausa P.S. Case No. 190 of 2023 in which the respondent

no.2 was issued notice and also the case diary was called for.

2. Learned counsel for the State informs this Court

that he has already informed the opposite party no.2 but, no one

has turned up on his behalf.

3. Heard learned counsel for the appellant and learned

Special Public Prosecutor for the State.

4. The instant appeal has been filed by the appellant

against the order dated 03.02.2024 passed by learned Additional

Sessions Judge 6th cum Special Judge, SC/ST Act, Bihar Sharif,



Nalanda whereby the prayer for bail of the appellant in connection with Nagarnausa P.S. Case No. 190 of 2023 under Sections 341, 323, 324, 307, 302, 504 and 34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(1), (r), (s) and 3(2)(va) of the SC/ST Act, was rejected.

5. As per prosecution case, the accusation has been made against the co-accused King Mahendra who opened fire on the deceased/Mantu Kumar due to which he sustained grievous gun-shot injury and died on the spot. It is alleged that the co-accused Raja Babu also assaulted Awadhesh Prasad by means of knife due to which he also sustained knife injury on his forehead. The allegation has been made against the appellant of assisting in the alleged occurrence.

6. Learned counsel for the appellant submits that the appellant is innocent and has has falsely been implicated in the present case due to village politics. He submits that the specific allegation of firing has been made on the co-accused King Mahendra whereas the allegation made against the appellant is general and omnibus. He further submits that the F.I.R. has been lodged after a delay of one day without any plausible explanation for the same. The appellant has no concern with the alleged occurrence. The Informant is not the eye-witness to the



alleged occurrence. He further submits that the doctor found lacerated injury on the forehead of the injured Awadesh Yadav caused by hard and blunt object which was found to be simple in nature and not attributed to the appellant. The appellant has been implicated in the present case because the appellant happens to be the brother of the co-accused King Mahendra. Charge-sheet has been submitted in this case. The appellant has not abused in the caste name and has also not assaulted anyone. The appellant is in custody since 11.12.2023 and has no criminal antecedent. Learned counsel for the appellant further submits that the co-accused Raja Babu has already been granted bail by a Coordinate Bench of this Court vide order dated 25.06.2024 passed in Cr. Appeal (S.J.) No. 1488 of 2024.

7. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant, stating that the allegation made against the appellant is serious in nature. The Informant and the various witnesses in Para nos. 5, 6, 10, 11, 15, 16 and 17 have supported the prosecution case. The postmortem report also supports the prosecution case. The learned court below has also taken cognizance under Sections 147, 148, 323, 302/149 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of the SC/ST Act.



8. Having perused the case diary, considering the aforesaid facts and circumstances of the case and the period of custody undergone by the appellant coupled with the fact that the appellant bears no criminal antecedent, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 03.02.2024 passed by learned Additional Sessions Judge 6th cum Special Judge, SC/ST Act, Bihar Sharif, Nalanda is hereby set aside.

9. Let the appellant, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Nagarnausa P.S. Case No. 190 of 2023.

(Rudra Prakash Mishra, J)

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