

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1984 of 2024**

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

Jitendra Kumar son of Sunil Sao @ Sunil Kumar Village-Sivalapar Kheeru
Bigha PS- Nagar Nausa Dist- Nalanda

... .. Appellant/s

Versus

1. The State of Bihar
2. Ramashish Paswan, Male, aged about 32 years, S/o Late Bandela Paswan,
R/o Village Daha Bigha, P.S. Hilsa, Dist. Nalanda.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ramji Kumar, Adv.
For the State	:	Mr.Sadanand Paswan, SPP
For the Informant	:	None

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

ORAL ORDER

3 27-06-2024 From the office notes dated 24.06.2024, it appears

that the notice through both modes has been issued to the

respondent no.2 but, the A/D and service report are awaited.

2. Learned counsel for the State submits that he has
already informed the respondent no.2.

3. In view of the above, let the service of notice upon
the respondent no.2 be deemed as valid service of notice.

4. Accordingly, though the present case has been
listed today under the heading “For Orders (On Office Notes) –
II”, the appeal is being taken up and disposed of on merits.

5. Heard learned counsel for the appellant and learned



Special Public Prosecutor for the State. No one appears on behalf of the O.P. No.2. Perused the case diary.

6. 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.

7. 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.

8. Learned counsel for the appellant submits that the appellant is innocent and has been falsely 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. 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.

9. 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.

10. Considering the aforesaid facts and circumstances



of the case and the period of custody undergone by the appellant as also the appellant having 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.

11. 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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