

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3636 of 2024**

Arising Out of PS. Case No.-170 Year-2023 Thana- DEEPNAGAR District- Nalanda

Manish Kumar @ Manish Mahto Son of Sri Ishwar Mahto Village-
Deepnagar, Ps- Deepnagar, Dist- Nalanda

... .. Appellant/s

Versus

1. The State of Bihar
2. Shishupal Paswan son of Anil Paswan Village- Manichak, Ps- Deepnagar,
Dist- Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rudal Singh, Adv.
For the Respondent/s	:	Mr. Binay Krishna, Spl. P. P. Mr. Virendra Prasad, Adv.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

4. 22-11-2024 Heard learned counsel for the appellant, learned
Special P.P. for of the State and learned counsel appearing on
behalf of respondent no. 2.

2. This appeal has been filed against the order dated
03.07.2024 passed by learned ADJ 6th cum Special Judge,
SC/ST Act, Nalanda, Bihar Sharif in connection with Deepnagar
P.S. Case No. 170 of 2023, registered under Sections 147, 148,
149, 342, 302, 120(B) of the Indian Penal Code, Sections 25(1-
B)A, 26, 35, 27 of the Arms Act and Sections 3(1)(r)(s), 3(2)(v)
of Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act (for short “SC/ST Act”), whereby the prayer for
bail of appellant has been rejected.

3. As per prosecution case, on the alleged date and time



of occurrence, while the informant was returning from market on his bicycle, he saw that his uncle was going towards Deepnagar market on his motorcycle and all the F.I.R. named accused persons including this appellant and 3-4 unknown persons were following him on their motorcycles and soon thereafter, the informant heard some sound of firing and when he went near the spot, he saw his uncle was lying in pool of blood and when he was taken to hospital, the doctor declared informant's uncle dead.

4. Learned counsel for the appellant submits that from perusal of F.I.R., it is manifest that informant is not eye-witness to the alleged occurrence and only suspicion has been raised against appellant and others, as there was money dispute between the deceased and this appellant. It is not the case of Informant that any member of public was present at the time of alleged occurrence and as such, no case under SC/ST Act is made out. In this case, charge has already been framed. Similarly situated co-accused persons have already been granted bail by a coordinate Bench of this Court, vide Annexure – 3 to the petition. The appellant is in custody since 26.04.2023, having no criminal antecedent.

5. Learned Spl. Public Prosecutor for the State and



learned counsel for the respondent no. 2 vehemently opposed the appeal.

6. However, considering the aforesaid facts and circumstances as well as period of custody and clean antecedent, the impugned order dated 03.07.2024 is, hereby, set aside and this criminal appeal is allowed.

7. Let the appellant, as named above, 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 ADJ 6th cum Special Judge, SC/ST Act, Nalanda, Bihar Sharif in connection with Deepnagar P.S. Case No. 170 of 2023.

(Prabhat Kumar Singh, J)

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