

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4400 of 2024

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

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Biltu Sao @ Biltu Saw @ Shatrughan Sao Son of Late Rambaran Sao @
Rambaran Saw Resident of Village - Kadi Bigha, P.S. - Bhagan Bigha O.P.
(Rahui), District - Nalanda

... .. Appellant/s

Versus

1. The State of Bihar
2. Shishupal Paswan Son of Anil Paswan Resident of Village - Manichak, P.S. -
Deepnagar, District - Nalanda

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mrs.Soni Srivastava, Adv.
For the Respondent/s	:	Mr. Binay Krishna, Spl.P.P. Mr. Virendra Prasad, Adv.

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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

26.07.2024 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 alongwith 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 has received gun shot injury and is lying in pool of blood and thereafter, he was taken to hospital, but the doctor declared informant's uncle dead.

4. Learned counsel for the appellant submits that appellant is not named in the F.I.R. Name of the appellant has transpired during course of investigation on the basis of confessional statement of co-accused Dharmendra Kumar and Vikas Kumar, who have already been granted bail by this Court. Learned counsel further submits that from perusal of F.I.R., it is apparent that informant is not eye-witness to the alleged occurrence. It is not the case of the informant that any public was present at the time of alleged occurrence and as such, no case under the SC/ST Act is made out. In this case, charge has already been framed. The appellant is in custody since 05.05.2023.



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 26.07.2024 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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