

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4404 of 2023

Arising Out of PS. Case No.-318 Year-2018 Thana- NAANPUR District- Sitamarhi

Raushan Thakur @ Rakesh Raushan Son Of Lakshmeshwar Thakur Resident
Of Village - Yajuar, Police Station - Katra, District - Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar.
2. Anita Devi Wife of Ganeshi Das Resident of Village - Bathaul, P.S. -
Nanpur, District – Sitamarhi.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Alok Kumar Alok, Adv.
For the Respondent/s : Mr.Sadanand Paswan, SPP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

4 27-06-2024 Though, the instant appeal has been heard along with

Cr. Appeal (SJ) No. 1602 of 2024 but, the same is being

disposed of by this order separately.

2. Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State. Perused the case diary.

3. Learned SPP for the State submits that he has
already informed the respondent no.2 through Superintendent of
Police, Sitamarhi regarding filing of the present appeal but, even
then, no one has turned up on her behalf.

4. The instant appeal has been filed by the appellant
against the order dated 19.05.2023 passed by learned 1st
Additional Sessions Judge cum Special Judge, SC/ST
(Prevention of Atrocities) Act, Sitamarhi whereby the prayer for
bail of the appellant in connection with Nanpur P.S. Case No.



318 of 2018 under Sections 302/120B/34 of the I.P.C., Section 27 of the Arms Act and Sections 3(1)(s)/3(2)(v) of SC/ST (Prevention of Atrocities) Act, was rejected.

5. As per prosecution case, the accusation has been made against the co-accused Dinesh Sahni of firing three times upon the husband of the Informant/Ganeshi Das. Upon Hullah, villagers came there and caught one of the miscreants who disclosed his identity as Avinash Mandal and further disclosed the name of his associate as Sawan Thakur.

6. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. The petitioner is not named in the F.I.R. and his name has surfaced in this case in course of investigation. There is no specific allegation against the appellant rather the specific allegation of firing is against Dinesh Sahni who fired three shots on the head of the deceased. The appellant was not present at the spot. Nothing incriminating has been recovered from the conscious possession of the appellant. Charge-sheet has been submitted against co-accused Avinash Mandal against whom cognizance of the offence has been taken under Sections 417, 302, 120(B) of the I.P.C., Section 27 of the Arms Act and Section 3(1)(s)/3(2)(va) of the SC/ST (Prevention of Atrocities)



Act. Charge-sheet has also been submitted against the appellant. There is no allegation of abusing any member of scheduled caste or scheduled tribe by caste name in any place within public view. The appellant is in custody since 27.01.2023. The appellant has altogether fifteen criminal antecedents and in all of them, he is on bail. Similar co-accused has been granted bail by a Co-ordinate Bench of this Court vide orders dated 10.01.2019 & 06.02.2019 passed in Cr. Appeal (S.J.) Nos. 208 of 2019 & 175 of 2019 respectively.

7. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant, stating that during course of investigation, the name of the appellant has surfaced in this case regarding his involvement in the alleged offence. The police has also submitted supplementary charge-sheet against the petitioner and cognizance of the offence has also been taken against co-accused Avinash Mandal under Section 417, 302, 120(B) I.P.C., Section 27 of the Arms Act and Section 3(1)(s)/3(2)(va) of SC/ST (Prevention of Atrocities) Act and, thus, he does not deserve bail.

8. Considering the aforesaid facts and circumstances of the case and there being no specific allegation of any overt act against the appellant as also considering the period of



custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and dated order dated 19.05.2023 passed by learned 1st Additional Sessions Judge cum Special Judge, SC/ST (Prevention of Atrocities) Act, Sitamarhi 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 Nanpur P.S. Case No. 318 of 2018, subject to following conditions;

(i) One of the bailor(s) shall be the own/close family members of the appellant.

(ii) The appellant shall cooperate 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 in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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