

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4479 of 2023**

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

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YOGENDRA YADAV S/O LATE PARBHU YADAV R/O VILLAGE-
BEGAMPUR, P.S- NALANDA, DISTT.- NALANDA.

... .. Appellant/s

Versus

1. The State of Bihar
2. SHISHUPAL PASWAN S/O ANIL PASWAN R/O VILLAGE-
MANIKCHAK, P.S- DEEPNAGAR, DISTT.- NALANDA.

... .. Respondent/s

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with

CRIMINAL APPEAL (SJ) No. 222 of 2024

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

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Dharmendra Mahto @ Dharmendra Kumar son of Late Bengali Mahto
Village- Meghi PS Deepnagar District- Nalanda

... .. Appellant/s

Versus

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

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 4479 of 2023)

For the Appellant/s : Mr.Sudish Kumar

For the Respondent/s : Mr.Binay Krishna

(In CRIMINAL APPEAL (SJ) No. 222 of 2024)

For the Appellant/s : Mrs.Soni Shrivastava

For the Respondent/s : Mr.Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

7 25-06-2024 Heard learned counsel for the appellants, learned

counsel for the informant and learned Special Public

Prosecutor for the State.

2. The instant appeal has been filed by the



appellants against the order dated 31.07.2023 and 23.11.2023 passed by learned Additional District & Sessions Judge 6th -cum-Special Judge (SC/ST) Act, Bihar Sharif, Nalanda whereby the prayer for bail of the appellant in connection with Deepnagar P.S. Case no. 170 of 2023 under Sections 147, 148, 149, 342, 302, 120(B) of the Indian Penal Code and sections 25(1-B)A, 26 and 35 of the Arms Act and Sections 3(i)(r)(s)/ 3(2)(V) of SC/ST Act was rejected.

3. As per allegation in the FIR, 8-9 accused persons including the appellants were following the motorcycle of the uncle of the informant. It is further alleged that informant had heard 9-10 round firing and 3-4 accused persons were returning by motorcycle uttering that they have killed Munna Paswan, uncle of the informant.

4. It is submitted by learned counsel for the appellants that appellants have been falsely implicated in this case. No one is the eye witness of the alleged occurrence. Save and except suspicion, nothing has come against the appellants during investigation. Independent witnesses have clearly stated during investigation that one unknown person was chasing to deceased and have fired upon him as a result of which he died. In para 29 of the case diary, younger brother



of the deceased raised suspicion that there was land dispute between Manish Mahto and deceased and he might be killed his brother with the help of other accused persons. Charge has already been framed against the appellants. General and omnibus allegations have been levelled against both the appellants. No offence is made out under the provisions of the SC/ST Act against them. They are languishing in judicial custody for about a year.

5. The appeal for bail is opposed by learned Spl. P.P. for the State and learned counsel for the informant and submitted that appellants are named accused and they have hands in killing of the informant's uncle.

6. Having heard learned counsel for the parties and taking into consideration that there is general and omnibus allegation against the appellants, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 31.07.2023 and 23.11.2023 passed in Deepnagar PS Case No. 170 of 2023 is hereby set aside.

7. The appellants are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) each with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions



Judge 6th-cum-Special Judge (SC/ST) Act, Bihar Sharif,
Nalanda.

(Sunil Kumar Panwar, J)

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