

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5106 of 2023**

Arising Out of PS. Case No.-439 Year-2019 Thana- JAMUI District- Jamui

Deepu Mahto @ Dipu Kumar @ Dipak Kumar S/O Roshan Mahato Village-
Kakan, Ps.Jamui, Dist. Jamui

... .. Appellant/s

Versus

1. The State Of Bihar
2. Dashrath Rajak S/O Late Ganauri Rajak Village- Kakan Pachpaniya, Ps.
And Dist. Jamui

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Mukul Jee

For the Respondent/s : Mr.Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

8 02-05-2024 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the SC/ST Act) against the refusal of prayer of bail *vide* order dated 30.09.2023 passed by the learned Additional Sessions Judge-1, Jamui cum Special Judge SC/ST P.O.A. Act, Jamui in connection with SC/ST Case No. 439 of 2019 arising out of Jamui P.S. Case No. 439/2019 dated 16.08.2019 registered for the offence/s punishable u/ss 302 read with 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v) of



the SC/ST Act, subsequently Section 120B of the I.P.C was added.

3. As per the prosecution case, on 16.08.2019, the informant was working in paddy field when he heard the sound of firing, in the meantime, he saw three unknown miscreants fleeing away towards *bandh*. Thereafter, the informant saw his son near the field with several firearm injuries and he found him dead. The informant's grand-daughter was weeping near the deceased and she disclosed that three unknown miscreants boarded on a motorcycle stopped the motorcycle of the informant's son and started firing.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. The appellant is not named in the F.I.R. The name of the appellant has sprung up in the confessional statement of the co-accused. There is no specific allegation of firing against the appellant. Learned counsel has further submitted that no particular caste name has been called by the appellant hence no case is made out under section SC/ST Act. The appellant is accused in two other criminal cases which is related to similar nature of offence as stated at para 3 of the bail petition. The appellant is in custody since 25.08.2023.



5. Learned Spl. P.P. for the State has vehemently opposed the prayer of bail.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 30.09.2023 passed by the learned Additional Sessions Judge-1, Jamui cum Special Judge SC/ST P.O.A. Act, Jamui in connection with SC/ST Case No. 439 of 2019 arising out of Jamui P.S. Case No. 439/2019 is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1, Jamui cum Special Judge SC/ST P.O.A. Act, Jamui in connection with SC/ST Case No. 439 of 2019 arising out of Jamui P.S. Case No. 439/2019, with the conditions:-

(i). The appellant is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellant are liable to be cancelled.

(ii). If the appellant is found involved in similar nature of offence in future, the prosecution will be at liberty to move



for cancellation of his bail bonds.

(Chandra Prakash Singh, J)

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