

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5352 of 2023

Arising Out of PS. Case No.-709 Year-2022 Thana- DHANARUA District- Patna

JALENDRA MAHTO, Aged about 45 years, Male, Son of Late Krishana Mahto, R/o village - Chhati, P.S. - Dhanarua, Distt. - Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Harendra Paswan, Aged about 40 years, Son of Ramji Paswan, R/o vill. - Chhati, P.S. - Dhanarua, Distt. - Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Lallu Prasad, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

4 22-04-2024 Despite service of valid notice upon the informant, no one is appearing on behalf of the informant.

2. Heard learned counsel for the appellant and learned Special Public Prosecutor for the State.

3. The instant appeal has been filed by the appellant against the order dated 19.10.2023 passed by learned Exclusive Special Judge SC/ST, Patna whereby the prayer for bail of the appellant in connection with Dhanarua P.S. Case no. 709 of 2022 under Sections 302/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v) of SC/ST Act was rejected.

4. As per prosecution case, the appellant along with



co-accused came at informant's house and started abusing by taking caste name. Co-accused shot the informant's mother due to which she died on spot and thereafter, both the appellant and co-accused fled away.

5. It is submitted by learned counsel for the appellant that appellant is innocent and has committed no offence. He has been falsely implicated in this case. He has not taken the caste name of the informant in public view. Hence, no offence is made out under the provisions of the SC/ST Act against him. There is no allegation against the appellant of murder of deceased rather the allegation against him only fled away from the place of occurrence. The appellant is languishing in judicial custody since 05.07.2023.

6. The appeal for bail is opposed by learned Spl. P.P. for the State.

7. From perusal of the F.I.R., impugned order dated 19.10.2023, case diary along with postmortem report, it appears that on the basis of written report of informant Harendra Paswan F.I.R. registered against two accused persons including the present appellant. The specific allegation of opening fire upon the deceased is against co-accused Jitendra Mahto, which is corroborated by the postmortem report, as one entry wound



and one exit would were found on the person of the deceased.

8. Considering the facts and circumstances of the case and the period of custody of the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 19.10.2023 is hereby set aside.

9. Let the appellant 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 the learned Special Judge SC/ST Act, Patna in connection with Dhanarua P.S. Case No. 709 of 2022.

(Ramesh Chand Malviya, J)

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