

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5706 of 2023

Arising Out of PS. Case No.-338 Year-2023 Thana- KUMAR KHAND District- Madhepura

1. Ram Vilash Sah, aged about 36 years, Male Son of Jainandan Sah @ Jaynandan Sah.
2. Dev Narayan Sah, aged about 54 years, Male Son of Late Tipu Sah.
Both are Resident of village - Laxmipur Chandi Asthan, Ward no. 07, P.S. - Kumarkhand, District – Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar
2. Prabhas Kumar Paswan, aged about 24 years, Son of Late Manik Chandra Paswan, Residents of Village- Laxmipur Chandi Asthan, Ward No. 07, P.S.- Kumarkhand, District- Madhepura.

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 415 of 2024

Arising Out of PS. Case No.-338 Year-2023 Thana- KUMAR KHAND District- Madhepura

Shivnandan Sah, aged about 56 years, Male Son of Late Tipu Sah, Resident of Village-Laxmipur Chandi Asthan, Ward No. 07, P.S.-Kumarkhand, District-Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar
2. Prabhas Kumar Paswan, aged about 24 years, Son of Late Manik Chandra Paswan, Resident of Village-Laxmipur Chandi Asthan, Ward No. 07, P.S.- Kumarkhand, District-Madhepura.

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 5706 of 2023)

For the Appellant/s : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl PP
For the Informant : Mr. Sunil Kumar Yadav, Advocate

(In CRIMINAL APPEAL (SJ) No. 415 of 2024)

For the Appellant/s : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl PP
For the Informant : Mr. Sunil Kumar Yadav, Advocate

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA



ORAL ORDER

5 23-05-2024 Heard learned counsel for the appellants, learned Special Public Prosecutor for the State and learned counsel for the informant.

2. The instant appeal has been filed by the appellants against the order dated 21.11.2023 passed by learned Additional District and Sessions Judge-1st-cum- Special Judge, Madhepura in B.P. No. 1769 of 2023 in connection with Kumarkhand P.S. Case No. 338 of 2023 registered under Sections 302 and 120(B) / 34 of Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of SC/ST Act.

3. As per the prosecution case, the allegation against the appellants are that he alongwith other co-accused persons committed murder of the father of the informant.

4. Learned counsel for the appellants are innocent have committed no offence and have falsely been implicated in the present case. He further submits that the appellants have not taken the caste name of the informant in public view. Hence, no offence under the provisions of SC/ST Act is made out against him. From perusal of the FIR, it appears that there is no case of SC/ST Act leveled against the appellants as they have not called the caste name. He further submits that the appellants neither present at the spot nor they have committed any offence. There



is land dispute between the parties. The appellants are in custody since 02.09.2023.

5. On perusal of the FIR, case diary and impugned order dated 21.11.2023, it appears that on the basis of typed report of the informant Prabhash Kumar Paswan FIR was registered against 13 accused persons including the present appellants. From perusal of the FIR and case diary that no allegation against the appellants of firing upon the deceased. On perusal of post mortem report single shot found on the dead body of the deceased as an ante mortem injury caused by fire arm.

6. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail.

7. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the appellants and similarly situated co-accused namely Jai Nandan Sah has already been granted bail by a co-ordinate Bench of this Court in Cr. Appeal (SJ) No. 47 of 2024, vide order dated 25.04.2024, this Court is inclined to allow this appeal.

8. Accordingly, the appeal is allowed and order dated 21.11.2023 passed by learned Additional District and Sessions Judge-1st-cum-Special Judge, Madhepura is hereby set aside.



9. Let the appellants be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge-1st-cum-Special Judge, Madhepura in connection with Kumarkhand P.S. Case No. 338 of 2023.

(Ramesh Chand Malviya, J)

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