

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 619 OF 2020
(Arising out of SLP (Crl.) No.10300 of 2019)

NITESH @ NITESH KUMAR
Petitioner(s)

...

VERSUS

THE STATE OF BIHAR
Respondent(s)

...

O R D E R

Leave granted.

2. The appellant has been implicated in FIR No. 861/18 lodged at Police Station Muzaffarpur Sadar, Muzaffarpur for an alleged offence under Sections 323, 324 and 341 of the Indian Penal Code. Mr. Harpreet Singh Gupta, learned counsel appearing on behalf of the State of Bihar states that after receipt of the injury report, the provisions of Section 307 of the Indian Penal Code have also been invoked.
3. The submission which has been urged on behalf of the appellant is that the other co-accused were granted anticipatory bail by the Trial Court on 26 November 2018. However, since the appellant is serving in the Indian Army, he applied for anticipatory bail subsequently and was entitled to the benefit of anticipatory bail on parity. Learned counsel submits that the injury report at Annexure P-1 indicates that the wounds have been caused by a hard and blunt object and, hence, the allegation that the petitioner was armed with a sword is a matter of doubt.
4. On 20 November 2019, this Court issued notice and directed stay of arrest in the

meantime. Having regard to the facts and circumstances of the case, we order and direct that in the event of the arrest of the appellant, he shall be released on bail subject to such terms and conditions as may be imposed by the Trial Court.

5. Learned counsel appearing on behalf of the State of Bihar, however, sought a direction that the appellant should cooperate in the investigation. Mr. Abhishek, learned counsel appearing on behalf of the appellant states that the appellant is presently posted at Galwan but as soon as leave is available to him from the service of the Army, he will attend at the police station where the FIR has been lodged and cooperate with the investigating officer. The appellant shall abide by his statement.
6. The appeal is, accordingly, disposed of in the above terms.

.....J.
(Dr Dhananjay Y Chandrachud)

.....J.
(Indu Malhotra)

.....J.
(K M Joseph)

New Delhi;
September 21, 2020

ITEM NO.25 Court 3 (Video Conferencing) SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 10300/2019

(Arising out of impugned final judgment and order dated 21-08-2019 in CRLM No. 51954/2019 passed by the High Court of Judicature At Patna)

NITESH @ NITESH KUMAR

Petitioner(s)

VERSUS

THE STATE OF BIHAR

Respondent(s)

(FOR ADMISSION and I.R.)

Date : 21-09-2020 This petition was called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE INDU MALHOTRA
HON'BLE MR. JUSTICE K.M. JOSEPH

For Petitioner(s) Mr. Abhishek, AOR
 Mr. Neeraj Kumar, Adv.

For Respondent(s) Mr. Harpreet Singh Gupta, Adv.
 Mr. Manish Kumar, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER

(Signed order is placed on the file)