

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2323 of 2019**

Arising Out of PS. Case No.-103 Year-2014 Thana- SHAHKUND District- Bhagalpur

Tipu @ Topla Yadav @ Tipu Yadav Son of Sri Bato Yadav Resident of
Village- Basantpur, Morkahi, P.S.- Akbarnagar, District- Bhagalpur.

... .. Appellant.

Versus

The State of Bihar.

... .. Respondent.

Appearance :

For the Appellant/s : Mr. Diwakar Upadhyaya
For the Respondent/s : Mr. Binay Krishna

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

ORAL ORDER

6 02-09-2019 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

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 for bail vide order
dated 07.01.2019 passed by learned 3rd Additional Sessions
Judge cum Special Judge SC/ST Act, Bhagalpur in connection
with Sessions Trial No.584 of 2017, arising out of Sahakund
P.S. Case No. 103 of 2014 registered under Sections 302, 307,
323, 333, & 353/34 of the Indian Penal Code, Section 27 of the
Arms Act and Section 3(2) (v) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act.



During the course of evening patrolling the informant got information about creating rein of terror in the village Pachrukhi by the four miscreants by brandishing pistol and when the informant arrived there and asked to surrender then they resorted firing upon the police party and in retaliation the police party also resorted firing and in the shoot out S.I. Avinash Kumar sustained injury which proved fatal. During the course of occurrence, one Tarini Mandal was apprehended while other accused persons managed to escape. Apprehended accused disclosed the name of the appellant as one of his fleeing accomplices involved in the occurrence.

It is submitted by learned counsel for the appellant that appellant has been falsely implicated in the case due to dirty village politics. There is nothing in the record indicating the complicity of the appellant in the occurrence barring the confessional statement of apprehended accused Tarani Mandal, which has no evidentiary value in the eye of law. Nothing incriminating article has been recovered from the conscious physical possession of the appellant. The allegation levelled against the appellant is not specific rather general and omnibus in nature. Co-accused Sintu Yadav and Sanjay Yadav, who were also named by the co-accused Tarani Mandal in his confessional



statement before the police, have been acquitted on trial.
Appellant has been languishing in custody since 07.02.2018.

Learned Spl. PP for the State opposed the prayer
for bail.

In the facts and circumstances of the case, the
above named appellant is directed to be released on bail on
furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand)
with two sureties of the like amount each to the satisfaction of
the learned 3rd Additional Sessions Judge cum Special Judge
SC/ST Act, Bhagalpur in connection with Sessions Trial
No.584 of 2017, arising out of Sahakund P.S. Case No. 103 of
2014, subject to the condition one of the bailors must be close
relative of the appellant.

Accordingly, the impugned order is set aside and this
appeal is allowed.

(Prakash Chandra Jaiswal, J)

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