

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.1738 of 2020**

Arising Out of PS. Case No.-264 Year-2018 Thana- Kusheshwarasthan District- Darbhanga

Ganesh Poddar Son of Ramchandra Poddar Resident of Village- Jhajha, P.S.-  
Kusheshwar Asthan, District- Darbhanga.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr. Sameer Ranjan, Adv.

For the Respondent/s : Mr. Binay Krishna, Spl.PP

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL ORDER**

3      14-12-2020                      Heard learned counsel for the appellant and learned  
Spl.P.P. for the State through video conferencing.

**Re:I.A. No.1 of 2020**

The interlocutory application has been filed by the appellant praying for condonation of delay in filing of the instant appeal.

It is submitted by learned counsel for the appellant that against the order dated 24.2.2020 while the limitation for filing the appeal expired on 26.5.2020, the same was filed on 19.10.2020. It is submitted that the appellant who is a poor person resides in the remote area of district Darbhanga. He could not arrange money for filing the appeal due to Covid pandemic. Thus the delay.

Having heard learned counsel for the parties and taking into consideration the submissions made on behalf of the appellant, the Court is satisfied that the appellant has made out a



case for condonation of delay in filing of the instant appeal. The delay is condoned.

The interlocutory application is allowed.

The instant appeal has been preferred against the order dated 24.2.2020 passed by the learned 1<sup>st</sup> Additional Sessions Judge-cum- Special Judge, SC/ST (POA) Act, Darbhanga whereby the prayer for bail of the appellant in connection with Kusheshwar Asthan P.S. Case No.264 of 2018 registered under sections 307, 341, 342, 323, 504 and 34 of the Indian Penal Code, section 27 of the Arms Act and section 3(1)(r)(s) of the SC/ST (Prevention of Atrocities) Act, 1989, was rejected.

As per allegation in the F.I.R. the accused persons including the appellant herein are stated to have abused the informant in the name of his caste and thereafter it is stated that the appellant fired from his pistol hitting the informant in his left hand as a result of which the informant fell down. Thereafter, the appellant fired once again hitting the informant in his head.

It is submitted by the learned counsel for the appellant that the appellant has been falsely implicated in the case and as a matter of fact, neither the appellant nor the informant are known to each other by name or face and they live in different



villages 8 kilometers away. It is submitted that inspite of medical facilities being available nearby, the statement of the informant was recorded at a distant private hospital. There is no explanation as to why the informant did not prefer to be treated at Rosera or Samastipur, which have better medical facilities and are closer to the alleged place of occurrence. One of the injury was found to be simple in nature. No independent witnesses have been examined. The appellant surrendered on 21.1.2020.

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

Having heard learned counsel for the parties and taking into consideration that the allegations against the appellant in the F.I.R. is of having fired repeatedly on the informant hitting him in his hand as also in his chest, which allegation is supported by the injury report which has come during course of investigation, the Court is not inclined to allow the appeal.

The appeal is rejected.

**(Partha Sarthy, J)**

Bibhash/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

