

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1117 of 2021**

Arising Out of PS. Case No.-331 Year-2019 Thana- CHAUSA District- Madhepura

Md. Sattar Son of Late Md. Kamal Resident of Village- Paina, P.S.- Chausa,
District- Madhepura.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Viveka Nandsingh
For the Respondent/s : Mr.Special P.P.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2. 02-03-2021 Heard learned counsel for the parties.

The present appeal has been filed against order dated 05.12.2020 passed by learned A.D.J.-I cum Special Judge, Madhepura in S.C./S.T. Case No. 248 of 2019, arising out of Chausa P.S. Case No. 331 of 2019 registered for the offence punishable under Sections 302/34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of SC/ST Act, whereby, the prayer for bail of appellant was rejected.

As per First Information Report, all the three accused persons, including appellant, came at the door of informant and called father-in-law of informant and when informant's father-in-law went at the door, all the three accused caught hold of him and opened fire on him, as a result of which, father-in-law of informant died on the spot.



It is submitted on behalf of appellant that there is no specific allegation as to who fired upon the deceased. As per the prosecution case, all the accused caught hold of the deceased and opened fire on the deceased, but the doctor has not found any charring or blackening injury on the body of the deceased. It is further submitted that from perusal of *post-mortem* report, it appears that only two wounds of entry and exit have been found on the person of deceased, which does not support the prosecution case. It is further submitted that prior to filing of the present case by the informant, her father-in-law (deceased) had filed a *Sanha* in the court below against co-accused Md. Khushid and others, but he had not named the appellant. One similarly situated co-accused Md. Shamim has already been granted bail by this Court, vide order dated 27.05.2020 passed in Cr.Appeal (SJ) No. 617 of 2020 (Annexure – 3). The appellant has no criminal antecedent and he is in custody since 19.09.2020.

However, counsel for the State vehemently opposed the appeal and submitted that there is specific allegation of assault against this appellant.

Considering the aforesaid facts & circumstances as well as submission of learned counsel for the appellant and the



kind of discrepancies pointed out at this stage, the impugned order dated 05.12.2020 is set aside and appeal is allowed.

Accordingly, let the appellant, above named, be released on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J.-I cum Special Judge, Madhepura in connection with S.C./S.T. Case No. 248 of 2019, arising out of Chausa P.S. Case No. 331 of 2019, on following conditions:

“(1) Appellant shall cooperate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present, as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail-bond shall be cancelled by the Court below.

(2) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.”

(Prabhat Kumar Singh, J.)

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