

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1340 of 2021**

Arising Out of PS. Case No.-993 Year-2019 Thana- SAHARSA District- Saharsa

Md. Aftab, male, aged about 26 years, son of Md. Kabir @ Md. Kabri,
Resident of village Simraha Ward no. 35 P.S. Saharsa District- Saharsa.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the appellant	:	Mr. N.K.Agrawal Sr. Adv with Mr. Uday Chand
For the State	:	Mr. Sadanand Paswan Spl PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

7 07-07-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

2 Learned counsel for the appellant is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects, as pointed out by office, when called upon to do so by the office

3. Heard learned senior counsel for the appellant and learned Spl PP for the State.

4. The appellant has preferred the present appeal under Section 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity , *SC/ ST Act*) against the refusal of his prayer for regular bail vide order dated 12.02.2020, passed by learned Addl. Dist. and Sessions Judge- 3rd-cum-Spl.Judge, Saharsa, in a case registered under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act and sections 3(i) (r) (v2)(s) of the SC/ST Act, in connection



with Special case no. 307 of 2019 arising out of Saharsa Sadar P.S. Case no. 993 of 2019.

5. It is the informant's case that his wife has been accosted by the appellant along with two of his associates on a motorcycle while she was on her way and shot at. The informant has received intimation, in this regard, by his mother, who claims to be an eye-witness walking about 20 steps behind the victim. It is further stated that about a year earlier also, the appellant had shot at the victim. The motive has been assigned that the victim perhaps was having illicit relationship with the appellant's father-in-law and, under a conspiracy, the appellant along with his mother-in-law has committed the murder of the informant's wife.

6. The learned senior counsel for the appellant submits that the prosecution case is that the murder has taken place around 5 PM in the evening in the winter when there is very little light. The informant has informed by his mother, who was more than 20 steps behind the victim and, therefore, the identification is doubtful. It is further submitted that from behind, it was not possible to ascertain out of three persons who had fired upon the victim. It is also submitted that sufficient motive has not emerged in the prosecution case at least for the appellant.

7. The learned Spl. PP for the State has opposed the prayer for bail. He has drawn the attention of the Court towards the case diary, which has been requisitioned earlier. The informant has been examined and she has fully supported the prosecution case as an eye-witness. It is submitted that at 5 O'clock in the evening identification cannot be doubted as the appellant had earlier shot at the victim and the parties were



known to each other being resident of the same village. Since the victim was working in the house of the appellant's father-in-law, the parties were known to each other. Earlier, also this appellant had attempted killing of the same victim in the year 2018, for which, Saharsa P.S. Case No. 746 of 2019 has been lodged. Under the circumstances, the appellant is not entitled to the privilege of bail.

8. This Court, having considered the rival submissions, is not inclined to allow the prayer for bail of the appellant. The impugned order dated 12.02.2020, passed in connection with Special case no. 307 of 2019 arising out of Saharsa Sadar P.S. Case no. 993 of 2019, merits no interference by this Court, which is, accordingly affirmed .

9. This appeal is dismissed.

10. However, this Court would observe that the learned Trial Court should proceed with the trial expeditiously and without granting any undue adjournments so as to conclude the trial as quickly as possible.

(Madhuresh Prasad, J)

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