

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1824 of 2020**

Arising Out of PS. Case No.-24 Year-2018 Thana- RAGHUNATHPUR District- Siwan

CHANDAN PATHAK @ CHANDAN KUMAR PATHAK Son of Sri
Chandeshwar Pathak Resident of Village- Bhanti, P.S.- Raghunathpur,
District- Siwan.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ram Pravesh Nath Tiwari, Advocate

For the Respondent/s : Mr. Sadanand Paswan, APP

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

3 04-01-2021 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

The instant appeal has been filed by the appellant against the order dated 24.4.2019 passed by the learned Additional Sessions Judge 1st-cum Special Judge, Siwan whereby the prayer for bail of the appellant in connection with Raghunathpur P.S. Case no. 24 of 2018 registered under sections 326, 307 and 34 of the Indian Penal Code, section 27 of the Arms Act and section 3(1)(r) and 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, was rejected.

As per allegation in the FIR, the appellant is stated to have fired upon the informant thrice hitting him in the chest.



It is submitted by learned counsel for the appellant that the earlier prayer for bail of the appellant was rejected vide order dated 11.9.2019 (Annexure ½) passed in Cr. Appeal (SJ) no. 2818 of 2019 directing the learned trial court to conclude the trial within six months and giving liberty to the appellant to renew his prayer for bail in case the trial is not concluded within the stipulated period. It is submitted that inspite of the appellant being in custody and all cooperation on his part, the trial has still not concluded and over one year and three months have passed since the order dated 11.9.2019. Further on merits, it is submitted that there was inordinate delay in sending of the FIR from the police station to the Court. The mother of the appellant is on death bed and the appellant has no criminal antecedent. He is in custody since 22.1.2019.

The appeal is opposed by learned Special PP appearing for the State who submits that the appellant is the assailant and the appeal be rejected fixing some time for conclusion of the trial.

A report was called for from the learned Court below. The same has been received and is contained in letter no. 366 dated 15.12.2020 of the learned Additional Sessions Judge 1st-cum-Special Judge, Siwan.



As per report seven prosecution witnesses have been examined in the case between 6.12.2019 and 18.2.2020. It further transpires that only two witnesses of which one is the Investigating Officer of the case remain to be examined on behalf of the prosecution and the SP, Siwan has been directed to produce the said witnesses in the trial on the next date i.e. 22.2.2020.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, the allegations against the appellant together with the contents of the report received from the learned Court below, the Court is not inclined to allow the instant appeal and the same is rejected.

In case the two remaining prosecution witnesses as informed by the learned Court below have not already been examined, it is directed that the SP, Siwan shall ensure their appearance in the trial on the next date. The learned Trial Court is also directed to expedite the trial and conclude the same at the earliest.

Let a copy of this order be communicated to the Superintendent of Police, Siwan.

In case any of the official witnesses/investigating Officer of the case does not appear to depose as a prosecution witnesses



in the trial, the learned Trial Court may issue warrant of arrest
which shall be got executed by the S.P Siwan.

(Partha Sarthy, J)

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