

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2077 of 2020**

Arising Out of PS. Case No.-34 Year-2019 Thana- PANCHRUKHI District- Siwan

Md. Shahbaj @ Sonu, Son of Ali Ahamed, Resident of Village - Hardiya,
Dashaniya Tola, P.O. and P.S. - Pachrukhi, District - Siwan.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ranjan Kumar Dubey, Advocate.
For the Respondent/s : Mr. Usha Kumari, APP

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

2 22-02-2021 As prayed for, let the learned counsel appearing for the appellant remove the defect(s), as pointed out by the office, within four weeks of starting of the Court proceeding in physical mode.

Heard learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the State.

This appeal, under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is directed against the order dated 04.09.2020 passed in Pachrukhi P.S. Case No. 34 of 2019, registered under Section 307 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby and whereunder the



learned Ist Additional Sessions Judge-cum-Special Judge, Siwan, rejected the prayer for grant of bail of the appellant.

The persecution case, in brief, is that Ashutosh Baitha, brother of the informant, Braj Kishore Bitha, on receiving call on mobile moved from the house. After one and half hour, his brother, Ashutosh Baitha, came at the door in injured condition. On query, his brother disclosed that he has been shot fire at Hardiya. Thereafter, his brother, Ashutosh Baitha, was rushed to Sadar Hospital, Siwan, where pellet was removed but he was referred to P.M.C.H., Patna. At that time, he was not in a position to talk to anyone.

Learned counsel for the appellant submits that on the basis of Fradbeyan of informant, Braj Kishore Baitha, Pachrukhi P.S. Case No. 34 of 2019 was instituted against unknown but after one month, due to dirty village politics, injured disclosed the name of appellant Md. Shahbaj, his brother Md. Sahnawaj @ Chunnu and one Masuk having hand in the occurrence. Further submission is that it would appear from the FIR that informant received information about the occurrence from his brother (injured), disclosing that he has been shot fire at Hardiya but did not disclose the name of the assailants at that time, which creates serious doubt about the genuineness of the story



of the brother of the informant, which has been recorded after one month of the occurrence. Further submission is that appellant has no criminal antecedent and is in custody since 25.08.2020.

Having considered the facts and circumstances of the case, the impugned order is set aside and this appeal is allowed.

Let the appellant, above named, 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 Ist Additional Sessions Judge-cum-Special Judge, Siwan, in connection with Pachrukhi P.S. Case No. 34 of 2019. Out of two sureties, one surety must be the close relative of the appellant.

(Rajendra Kumar Mishra, J)

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