

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2038 of 2020

Arising Out of PS. Case No.-746 Year-2019 Thana- SAHARSA District- Saharsa

MD AFTAB S/o Md. Kabir @ Md. Kabir Miyan R/o village- Simraha, P.S.
and Distt.- Saharsa

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Binod Kumar Sinha
For the Respondent/s : Special P.P.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 03-03-2021 Heard the learned counsel appearing for the appellant and
learned Special P.P. for the State.

This is an appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the order dated 26.08.2020 passed by the Additional Sessions Judge-3rd-cum-Special Judge, Saharsa in connection with Saharsa Sadar P.S. Case No. 746 of 2019, Special Case No. 47 of 2020 for the offence registered under Sections 307, 120(B)/34 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(i)(r), 3(2) (va), 3(2) (v) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby and whereunder the prayer of the appellant for grant of bail has been rejected.

Initially the FIR was lodged against unknown persons



wherein the informant has alleged that while she was returning home after doing her work and had reached at the *Kachi Sadak* near Idgah, she heard a voice and thereafter felt severe pain on the right side of her back whereupon she fell down and saw two persons aged about 25 years fleeing away, out of whom one was having a small gun in his hand. It is also alleged by the informant that subsequently she realized that she has been shot at by unknown accused persons, whereafter large number of local people had assembled at the said place of occurrence and then the informant was taken to the Sadar Hospital.

The learned counsel for the appellant has submitted that the appellant is innocent, has been falsely implicated in the present case and he is languishing in custody since 04.01.2020. The learned counsel for the appellant has further submitted that there is no material on record so as to suggest the complicity of the appellant in the alleged crime and in fact he is the son-in-law of one Md. Ibrahim Gardi who is also an accused in the present case. It is also submitted that the said co-accused person has already been granted bail by a coordinate Bench of this Court vide order dated 21.12.2020 passed in Criminal Misc. No. 26934 of 2020. It is further submitted that one another co-accused person has also been granted bail vide order dated



12.10.2020 passed in Criminal Misc. No. 26192 of 2020.

Per contra, the learned Special P.P. for the State has vehemently opposed the prayer for bail but has submitted that there is minuscule evidence in the case diary to specifically demonstrate and identify the person who had fired gun shots on the deceased.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the parties, taking into account the materials available on record as also those available in the case dairy and further having regard to the parity of the case of the appellant with that of the co-accused persons who have already been granted bail, I deem it fit and proper to admit the appellant to the privilege of regular bail.

Accordingly, the appellant, above named, is directed to 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 Additional Sessions Judge-3rd-cum-Special Judge, Saharsa in connection with Saharsa Sadar P.S. Case No. 746 of 2019, Special Case No. 47 of 2020.

Consequently, the order dated 26.08.2020 passed by the Additional Sessions Judge-3rd-cum-Special Judge, Saharsa in



connection with Saharsa Sadar P.S. Case No. 746 of 2019,
Special Case No. 47 of 2020, is set aside.

The Appeal stands allowed.

(Mohit Kumar Shah, J)

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