

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.488 of 2021

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

Md. Mashuque @ Masuque @ Masum Ali S/o Mohammad Samim R/o
village/At- Miskar Toli, P.S.- Siwan Town, District- Siwan.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Javed Aslam, Advocate
For the State : Mr. Binjay Krishna Spl PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 08-03-2021

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

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.

3. The appellant has preferred the present appeal under
Section 14A(2) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989 against the refusal of prayer
for regular bail vide order dated 25.09.2020, passed by learned
Additional Sessions Judge-1st-cum-Special Judge, Siwan in
Pachrukhi PS Case No. 34 of 2019, registered under Section 307
of the Indian Penal Code, Section 27 of the Arms Act and Sections
3(2)(r) of the SC/ST Act.

4. The brother of the informant has received a call from
a mobile Number and thereafter left the house, to come back one
and half hours later in an injured condition and bleeding. He has
told the informant that he has been shot, at Hardiyae. The FIR has



been lodged one day after the incident when informant has stated that his brother (victim) did not tell him who fired the shot. FIR has, thus, been lodged against unknown persons.

5. Appellant's counsel submits that the victim obviously knew the appellant but has not named him in the FIR. One month later, he has implicated the appellant along with Md. Shahbaz and Md. Sahnawaj @ Chunnu. It is stated that appellant's implication is on extraneous consideration though no specific overt act is alleged against him. Appellant bears a clean pasted and is stated to be in custody since 05.09.2020. The other co-accused, namely, Md. Shahbaz @ Sonu, who has been implicated in a similar manner and who is similarly situated has been allowed bail in Cr. Appeal (SJ) No. 2077 of 2020.

6. The learned Spl. PP has opposed the prayer for bail.

7. Considering the rival submissions, this appeal is allowed. The impugned order dated 25.09.2020, passed by learned Additional Sessions Judge-1st-cum-Special Judge, Siwan, in Pachrukhi PS Case No. 34 of 2019, is set aside. Let the appellant, above named, 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 learned Additional Sessions Judge-1st-cum-Special Judge, Siwan, in Pachrukhi PS Case No. 34 of 2019, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.



(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.03.2021
Transmission Date	

