

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.194 of 2021**

Arising Out of PS. Case No.-96 Year-2020 Thana- BAKHTIYARPUR District- Patna

SADHU YADAV Son of Budhan Yadav Resident of Village - Chanda, Police Station - Athmalgola, District - Patna.

... .. Appellant/s

Versus

THE STATE OF BIHAR Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arun, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER**

2 26-07-2021 Heard Mr. Arun, learned counsel for the appellants and Mr. Binay Krishna, learned Spl. PP for the State.

The appellant has challenged the order dated 04.11.2020 passed by the learned A.D.J. III-cum-Special Judge, SC/ST, Patna in A.B.P. No. 6573 of 2020 arising out of Bakhtiyarpur P.S. Case No. 96 of 2020, whereby the prayer made on behalf of the appellant for grant of pre-arrest bail for the offences under Sections 504, 506, 307, 452 and 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r)(s) of the SC/ST (Prevention of Atrocities) Act has been rejected.

The accusation in the FIR is that while the informant was watching news on television in his house, the appellants and others arrived. The informant was



abused by taking his caste name and was also fired upon.

However, he was not hit by the act of firing of the accused persons.

Learned counsel for the appellant has submitted that neither has he been accused of abusing the informant or of opening fire. He is though named in the FIR but no overt act has been attributed against him. He further submits that the accusation under the SC/ST (Prevention of Atrocities) Act is motivated for the reason that no motive has been assigned in the FIR.

Assuming but not admitting that the occurrence took place in the manner as suggested in the FIR, it was within the ramparts of the house of the informant in the night. The absence of any motive for the offence and the informant remaining unscathed even though he was fired upon from a close range, makes the case highly suspect.

Learned counsel for the appellant has further submitted that he does not have criminal antecedents.

For the aforesaid reasons, the order dated 04.11.2020 is set aside.

The appeal stands allowed.

On the appellant surrendering before the court below within a period of eight weeks, he shall be released on bail on his furnishing bail bonds in the sum



of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J. III-cum-Special Judge, SC/ST, Patna in A.B.P. No. 6573 of 2020 arising out of Bakhtiyarpur P.S. Case No. 96 of 2020.

(Ashutosh Kumar, J)

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