

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 502 of 2021

Arising Out of PS. Case No.-331 Year-2019 Thana- CHAUSA District- Madhepura

MD KHUSSO @ MD KHUSO @ KHURSHID @ SHEKH KHURSHID
ALAM SON OF LATE MD MAKKHO ALIAS MAKBUL HUSSAIN MD.
MAKHKHO VILL- PAINA, P.S. CHAUSA, DIST- MADHEPURA

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

For the Appellant/s : Mr Yogesh Chandra Verma, Sr Advocate with
Mr Nafisuzzoha, Advocate
For the Respondent/s : Mr Sadanand Paswan, Special PP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 25-03-2021

Heard learned senior counsel for the appellant and the
learned Special PP for the State.

2 The appellant has preferred the present Appeal under Section 14 A (2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for brevity, *SC/ST Act*) against the refusal of his prayer for regular bail vide order dated 08.12.2020 passed by Additional Sessions Judge I -cum- Special Judge, Madhepura in a case registered under Sections 302/34 of Indian Penal Code, Section 27 of Arms Act and Sections 3 (2) (v) of SC/ST Act in connection with SC/ST Case No 248 of 2019 arising out of Chausa Police Station (for brevity, PS) Case No 331 of 2019 dated 06.12.2019.

3 The informant has alleged that three named accused persons, including the appellant have come to her house and fired upon her father-in-law.



4 Learned senior counsel for the appellant submits that informant claims to be present at the time of firing. However, she has not stated as to who fired on the victim and on which part of the body. There is allegation of firing by all three persons. Post mortem report finds only two gunshot injuries. The appellant is aged about 70 years and it is submitted that implication is based on subsisting dispute between the parties since before. Appellant has no criminal antecedent. The other two named co-accused Md Shamim and Md Sattar have already been allowed bail by this Court by order dated 27.05.2020 passed by this Court in Cr Appeal (SJ) No 617 of 2020 and by order dated 02.03.2021 passed in Cr Appeal (SJ) No 1117 of 2021.

5 In my opinion, a case for grant of regular bail is made out. The impugned order dated 08.12.2020 requires interference by this Court, which is, accordingly, set aside.

6 Learned Special PP for the State has opposed the prayer for bail. He has submitted that the informant has stated about the appellant with two persons firing upon her father-in-law and she has claimed herself to be an eye witness to the occurrence.

7 Considering the rival submissions, this appeal is allowed. The impugned order dated 08.12.2020 passed by Additional Sessions Judge I -cum- Special Judge, Madhepura in



connection with SC/ST Case No 248 of 2019 arising out of Chausa PS Case No 331 of 2019 dated 06.12.2019 is set aside.

8 Let the appellant above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge I -cum- Special Judge, Madhepura in SC/ST Case No 248 of 2019 arising out of Chausa PS Case No 331 of 2019 dated 06.12.2019 subject to the following conditions:

(1) 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.

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

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.03.2021
Transmission Date	25.03.2021

