

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.827 of 2022**

Arising Out of PS. Case No.-411 Year-2020 Thana- SAMASTIPUR MUFFASIL District-
Samastipur

Abhishek Kumar, Son of Nago Rai @ Nagendra Kumar, R/O Village-
Jitwarpur Nizamat, P.S.- Muffasil, District- Samastipur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Karandeep Kumar, Advocate
Mr. Mahendra Pratap, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 29-09-2022 Learned counsel for the appellant is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Karandeep Kumar, learned counsel
appearing on behalf of the appellant and learned Spl. PP for the
State.

Earlier notices was issued to the newly added
respondent No. 2 under both process, however, neither the
service report nor A/D have been received. Vide order dated
08.09.2022, the learned counsel for the State was directed to
ensure service of notice and intimate the Superintendent of
Police, Samastipur with regard to pendency of the case.

Today, learned Spl. PP informed that the intimation



with regard to pendency of the case has also been given to the Superintendent of Police and the SHO of the concerned police station, but none appears.

The present appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes, Prevention of Atrocities Act, 1989, (hereinafter referred to as 'SC/ST Act') has been preferred against the order dated 23.11.2021 passed by the Learned Additional District and Sessions Judge 1st cum Special Judge SC/ST Act, Samastipur in connection with T.R. No. 1404 of 2021 arising out of Muffasil P.S. Case No. 411 of 2020 registered for the offences punishable under Sections 307, 455, 504, 506/34 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(1)(r)(s) / 3(2)(Va) of the SC/ST Act.

The prosecution case is based on a written report of the informant alleging therein that while the informant along with his family members were sleeping then appellant and one unknown person came and started abusing, when the informant opened the door, they fired twice over him, however, he anyhow saved himself.

Learned counsel appearing on behalf of the appellant submits that from the FIR it would be evident that no injury has caused to anyone and save and except the allegation of firing



against two persons, there is no allegation of any assault or otherwise. He next submits that in fact on account of previous animosity, the name of the appellant has been implicated in this case and, moreover, the appellant is in custody since 04.06.2021 and now the investigation of the crime is already complete and charge-sheet has been submitted.

On the other hand, learned counsel for the State vehemently oppose the bail application and submits that the appellant is a habitual offender and he has named in four other criminal cases of similar kind. In response to the aforesaid submission, learned counsel appearing on behalf of the appellant submits that the appellant is on bail in all other cases.

Regard being had to the submissions made on behalf of the parties and considering the fact that no injury has been caused to anyone and the appellant is in custody since 04.06.2021, let the appellant, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge 1st cum Special Judge SC/ST Act, Samastipur in connection with T.R. No. 1404 of 2021 arising out of Muffasil P.S. Case No. 411 of 2020, subject to the condition that one of the bailors will be



the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(v) The court below shall verify the criminal antecedent of the appellant and in case, at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the appellant. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

The appellant will mark his attendance before the SHO of the concerned police station, on every first week of month for at-least six months and, in future, if the appellant would found indulged in intimidating the informant and his family



members, they would be at liberty to file an application for
cancellation of his bail.

Accordingly, the impugned order dated 23.11.2021 is
hereby set aside and the present appeal stands allowed.

(Harish Kumar, J)

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