

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1216 of 2022**

Arising Out of PS. Case No.-209 Year-2020 Thana- AANDAR District- Siwan

MD. AZAHARUDDIN ALI @ AZAHARUDDIN S/o Shamshad Miya @
Md. Shamshad Miya Resident of Village- Gay Ghat, P.S.- Andar, District-
Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kanhaiya Sah S/o Late Ramdeo Sah R/o Village- Gay Ghat, P.S.- Andar,
District- Siwan

... .. Respondent/s

Appearance :

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

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

4 24-08-2022 Heard learned counsel for the appellant and learned

Spl. PP for the State. No one appears for the Opposite Party no.
2.

The appellant has renewed his prayer for bail in a
case registered under section 307 and other sections of the
Indian Penal Code, section 27 of the Arms Act and sections 3(1)
(r)(s) of the SC and ST (POA) Act.

The prosecution case is of Tais Ali having fired with
a country made pistol on the informant Kanhaiya Sah while the
petitioner fired with a country made 'katta' on Jitendra Sah.

It is submitted by learned counsel for the appellant
that the earlier prayer for bail of the appellant was rejected vide



order dated 27.9.2021 (Annexure-1) passed in Cr. Appeal(SJ) no. 3632 of 2021 giving liberty to the appellant to renew his prayer for bail after six months. It has been more than 11 months since passing of the said order. The appellant is in custody since 13.12.2020 and there is no chance of the trial concluding in the near future in view of the fact that no witness has been examined on behalf of the prosecution.

The prayer for bail is opposed by learned Spl. P.P for the State.

Inspite of service of notice no one appears on behalf of the Opposite Party no. 2.

A report was called for from the learned trial Court. As per the report received no witness out of the six charge sheet witnesses has been examined on behalf of the prosecution.

Having heard learned counsel for the parties and taking into consideration the facts of the case, the liberty granted by the earlier order of rejection dated 27.9.2021, the appellant having remained in custody since 13.12.2020 ie. for more than 1 year 8 months and no witness having been examined on behalf of the prosecution in the learned trial Court, the Court is inclined to allow the instant appeal.

The appeal is allowed.



The petitioner is directed to be enlarged on bail in connection with Aandar P.S. Case no. 209 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Addl. Sessions Judge I-cum-Special Judge, Siwan.

(Partha Sarthy, J)

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