

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3088 of 2021**

Arising Out of PS. Case No.-135 Year-2017 Thana- PUPRI District- Sitamarhi

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Md. M. A. Hussain @ Md. Athar Hussain, Son of Md. Kafil @ Md. Kafil Ahmad, Resident of Village Kachaharipur, P.S. Bajpatti, District Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Chandeshwar Paswan, Son of Late Jageshwar Paswan, Resident of Village Hariharpur, P.S. Pupri, District Sitamarhi.

... .. Respondent/s

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Appearance :

For the Appellant/s : Md. Shamimul Hoda
For the Respondent/s : Mr. Binay Krishna

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

6 17-01-2022 Heard learned counsel for the appellant and learned Special P.P. for the State through virtual court proceedings.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as ‘the SC/ST Act’) against the refusal of prayer of bail vide order dated 12.07.2021, passed by learned 1st Additional Sessions/Special Judge, (SC/ST Act), Sitamarhi in connection with Pupri P.S. Case No.135 of 2017, registered under Sections 304/34 of the Indian Penal Code and Sections 3(II)(v) of the SC/ST Act.

By order dated 03.11.2021, notice was issued to newly added respondent no.2 by ordinary as well as registered



post with A/D. The office has reported that A/D has been received validly served on respondent no.2, but no one appears on behalf of respondent no.2.

Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. There is general and omnibus allegation against the appellant. It is further submitted that some of the accused persons has been granted anticipatory bail vide Criminal Appeal (SJ) No.408 of 2018, dated 16.02.2018 and Criminal Appeal (SJ) No.3401 of 2017, dated 02.01.2018. According to the FIR, it is a case of medical negligence in the treatment of the daughter of the informant. The appellant is a Unani doctor. No specific overt act is alleged against the appellant. It is further submitted that the matter has been compromised between the parties vide Annexure-3. The appellant has got one criminal antecedent being Complaint Case No.739 of 2017, corresponding to Trial No.2690 of 2017 for the offence under Section 498A IPC and Section 4 of D.P. Act.

Learned Special P.P. for the State opposed the prayer for bail of the appellant.

Taking into consideration the facts aforesaid, let appellant, above named, be enlarged on bail on furnishing bail



bond of Rs.25,000/- (rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge/Special Judge, SC/ST Act, Sitamarhi in connection with Pupri P.S. Case No.135 of 2017.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J.)

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