

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2243 of 2022**

Arising Out of PS. Case No.-40 Year-2020 Thana- CHERIYA BARIYARPUR District-
Begusarai

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DHARMENDRA CHAUDHARY Son of Shiv Shankar Chaudhary Resident
of Rampur Ghat, P.S.- Cheriya Bariyarpur, District - Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Manoj Kumar

For the Respondent/s : Ms.Usha Kumari 1

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 12-10-2022 Heard learned Counsel for the appellant and learned
Additional Public Prosecutor for the State.

An order, dated 10.12.2020 passed by learned
Exclusive Special Judge, SC/ST (POA) Act, Begusarai, in
connection with Cheriya Bariyarpur Police Station Case No. 40
of 2020 for the offence registered under Sections 341, 323, 504,
302/34 of the IPC read with Section Section 3(1)(r)(s)(w) & 3
(2) (v) of SC/ST (POA) Act, by which regular bail application
of the appellant has been rejected.

This is the second attempt on behalf of the appellant
for grant of regular bail. Earlier, the prayer for regular bail of the
petitioner was rejected by this Court, vide order, dated
23.06.2021, passed in Criminal Appeal (SJ) No. 1041 of 2021,



giving liberty to the petitioner to renew his prayer for bail after one year from the date of the order, if the trial does not show any progress.

The prosecution case, as per the First Information Report, is that the appellant, along with other accused persons, assaulted the mother of the informant with iron rod, leading to her death.

Learned Counsel for the appellant submits that despite valid service of notice upon the informant, nobody is appearing on his behalf. He further submits that in the First Information Report, similar allegation has been levelled against co-accused Chandan Kumar, who has been granted bail by a co-ordinate Bench of this Court, vide order, dated 08.09.2022, passed in Criminal Appeal (SJ) No. 1733 of 2022. He further submits that the petitioner is in custody since 28.11.2020 and the trial has not progressed substantially from the date of last rejection of the prayer for bail of the appellant.

This Court, vide order, dated 10.08.2022, had called for a report from the learned Court below regarding the stage of the case and in pursuance of the said order, a report has been submitted by learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai and from perusal of the same, it would be



evident that even charges have not been framed in this case.

Having heard learned Counsel for the parties and taking into consideration the materials on record and the fact that the appellant is in custody since 28.11.2020, charges have not been framed against the appellant as yet, co-accused person has been granted bail by this Court and this is second attempt on behalf of the appellant for grant of bail, I am inclined to grant regular bail to the appellant.

Accordingly, this appeal is allowed and the order, dated 10.12.2020 passed by learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai, in connection with Cheriya Bariyarpur Police Station Case No. 40 of 2020, is set aside.

Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai, in connection with Cheriya Bariyarpur Police Station Case No. 40 of 2020, subject the following conditions:

(i) One of the bailors shall be a close relative of the appellant.

(ii) The appellant shall remain present on each and every date fixed by the learned Court below.



(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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