

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.759 of 2023**

Arising Out of PS. Case No.-53 Year-2022 Thana- SAUR BAZAR District- Saharsa

Santosh Sah @ Santosh Kumar Son Of Late Parmeshwari Sah R/O Village-
Itahara Ward No.07, P.S.- Saur Bazar, O.P.- Baijnathpur, District- Saharsa

... .. Appellant/s

Versus

1. The State of Bihar
2. Raju Paswan Son Of Vimal Paswan R/O Village- Itahara, P.S.- Saur Bazar,
O.P.- Baijnathpur, District- Saharsa

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Chandra Mohan Jha
For the Respondent/s : Mr.Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER**

7 05-10-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. The instant appeal has been filed by the appellant against the order dated 03.01.2023 passed by learned A.D.J. 3rd -cum-Special Judge, SC/ST, Saharsa whereby the prayer for bail of the appellant in connection with Spl. Case No. 45 of 2022 arising out of Sour Bazar P.S. Case no. 53 of 2022 under Sections 448, 341, 323, 307, 504, 506/34 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(i)(r)(s), 3(2)(v), 3(2)(va) of SC/ST (POA) Act was rejected.

3. Allegation against the appellant is that he opened fire upon the informant due to which he sustained gunshot



injury in his lower belly. He also abused him by taking his caste name.

4. It is submitted by learned counsel for the appellant that appellant has been falsely implicated in this case due to dirty village politics. Both the parties are co-villagers. The alleged occurrence took place in the background of land dispute. He has not taken the caste name of the informant in public view. No offence is made out under the provisions of the SC/ST Act against him. During course of investigation, no dependent witness has supported the version of the informant. The other co-accused namely, Shiv Kumar Sah @ Shiv Kumar has already been enlarged on bail by this Court vide order dated 06.07.2023 passed in Cr. Misc. No. 4228 of 2022. Moreover, the appellant is languishing in judicial custody since 05.09.2022.

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

6. Having heard learned counsel for the parties and taking into consideration that there is general and omnibus allegation against the appellant, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 03.01.2023 is hereby set aside.



7.The appellant is directed to be enlarged on bail **after framing of charge, if charge is not framed** in connection with Spl. Case No. 45 of 2022 arising out of Saur Bazar P.S. Case No. 53 of 2022 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned ADJ 3rd-cum-SC/ST Special Judge, Saharsa.

(Sunil Kumar Panwar, J)

lata/-

U		T	
---	--	---	--

