

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.1928 of 2023**

Arising Out of PS. Case No.-461 Year-2022 Thana- AMARPUR District- Banka

Sikandar Das @ Surendra Prasad Das @ Surendra Das S/O Late Bhulthi Das  
R/O Village- Mainma, P.S- Amarpur, Distt.- Banka.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance:**

For the Appellant/s : Mr. Praveen Kumar, Advocate  
For the Respondent/s : Mr. Binay Krishna, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH**  
**ORAL ORDER**

- 2      16-05-2023      1.      Heard the parties.
2.      The instant appeal has been preferred against the order dated 24.03.2023 passed by the Court of learned Additional Sessions Judge-I, Banka in connection with Amarpur P.S. Case No. 461 of 2022, which has been registered for the offences punishable under Sections 147, 148, 149, 341, 342, 323, 302 and 504 of Indian Penal Code, Section 27 of Arms Act and Sections 3(1)(r),(s) and 3(2)(v) of SC/ST Act, whereby the appellant's prayer for bail was rejected.
3.      It is submitted by learned counsel for the appellant that as the appellant himself belongs to SC/ST community, the offences punishable under SC/ST Act, under which the FIR has been registered, are not applicable against the appellant and appellant's caste certificate issued by the concerned authority has been filed as Annexure-3 and there is no serious and specific

allegation against the appellant and altogether twelve accused persons including the appellant have been named in the FIR and one similarly situated co-accused Manoj Yadav has been granted bail by a co-ordinate bench of this Court vide order passed in Cr. Appeal (S.J.) No. 3987 of 2022. Further submissions are that as per allegations this appellant and co-accused persons simply assaulted the deceased and after that occurrence co-accused Pintu Yadav fired at the deceased and then at the direction of co-accused Bishnudeo Yadav, three co-accused persons namely, Pankaj Yadav, Shankar Yadav and Nirdosh Yadav also opened fire at the deceased and the said allegation of firing is not against the appellant and accordingly the allegation levelled against the appellant is completely general and omnibus and as per the *post-mortem* report, on the body of the deceased only one gunshot injury was found which falsifies the allegation of assault levelled against this appellant and other co-accused persons to the victim and moreover, the appellant is sixty-five years old and has been languishing in jail since 21.03.2023 and against him the investigation has been completed.

4. Although learned Spl. PP opposes the bail prayer but fairly accepts that there is no requirement of notice to the informant as according to statement made by appellant in the

memo of appeal, the appellant himself belongs to SC/ST community.

5. Considering the above submissions and mainly the facts that one similarly situated co-accused Manoj Yadav, carrying similar nature of allegation, is on bail and in the FIR there is no specific allegation against this appellant and the main allegation of firing is against co-accused persons namely, Pintu Yadav, Pankaj Yadav, Shankar Yadav and Nirdosh Yadav and as per above submissions on the body of the deceased only one gunshot injury was found and against the appellant the investigation has been completed, in my opinion, the appellant deserves to the privilege of bail, accordingly, the order impugned is hereby set aside and the appeal stands allowed. Let the appellant named-above be enlarged on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I, Banka in Connection with Amarpur P.S. Case No. 461 of 2022.

**(Shailendra Singh, J)**

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