

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.2860 of 2023**

Arising Out of PS. Case No.-20 Year-2023 Thana- KALUAHI District- Madhubani

CHHOTU DAS @ SHITESH KUMAR S/O DEBU DAS @ DEOSCHARAN  
DAS R/O Village- Arghawa (Radh), P.S- Basopatti, Distt.- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dahur Ram S/O Achhe Ram R/O Village- Radh, P.S- Kaluahi, Distt.- Madhubani.

... .. Respondent/s

**Appearance :**

|                     |   |                                                                                                |
|---------------------|---|------------------------------------------------------------------------------------------------|
| For the Appellant/s | : | Mr. Gagandeo Yadav, Advocate<br>Mr. Ravi Prakash, Advocate<br>Mr. Udeshya Kr. Yadav, Advocate. |
| For the State       | : | Mr. Binay Krishna, Spl. P.P.                                                                   |

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

5      03-11-2023                      Learned counsel for the appellant is directed to make necessary correction in paragraphs-1 and 5 of the memo of appeal in course of the day.

2. Heard Mr. Ravi Prakash, learned counsel for the appellant and Mr. Binay Krishna, learned Spl. P.P. for the State.

3. It appears from the office notes dated 12.10.2023 that notice has validly been served upon the Opposite Party No. 2 but no one has chosen to appear before this Court.

4. This is an appeal under Sections 14((A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for bail by order dated 12.5.2023 passed by learned Additional Sessions Judge,



1<sup>st</sup> cum Special Judge, Madhubani, in connection with Kaluahi P.S. Case No. 20 of 2023 dated 26.1.2023, G.R. No. 07 of 2023 registered under Sections 302, 120-B, 354-B of the Indian Penal Code, Section 27 of the Arms Act and Section 3(i)(r)(s)/w(i)(w)(ii)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

5. The allegation as per the First Information Report is that on 25.1.2023, on the occasion of Matokor ceremony, when the grandson of the informant was standing near the decoration of the ceremony, all the accused persons abused the informant using caste name and upon objected, the allegation against the appellant and two others that they brought guns and gave to the FIR named accused Nos 1, 2 and 3 and they fired which hit over the head of the son of the informant and his daughter-in-law, on account of which, they died.

6. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. He further submits that from perusal of the First Information Report, it appears that there is no specific overt act of firing against the appellant. The only allegation against the appellant is that he had provided the pistol to the accused who had fired upon the deceased. The appellant is in custody since



16.3.2023.

7. Learned Spl. P.P. for the State on the other hand has vehemently opposed the prayer for bail and submits that the appellant had provided pistol to the co-accused from which they fired upon the deceased.

8. Considering the aforesaid facts and circumstances of the case and the period of custody, let the appellant, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1<sup>st</sup> Additional Sessions Judge cum Special Judge, Madhubani, in connection with Kaluahi P.S. Case No. 20 of 2023 with the following conditions:-

*(i) Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.*

*(ii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.*

*(iii) And, further condition that the court below shall verify the criminal*



*antecedent of the appellant and in case at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above mentioned order shall not be delayed for purpose of or in the name of verification.*

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

**(Rajesh Kumar Verma, J)**

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