

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2928 of 2023

Arising Out of PS. Case No.-1129 Year-2022 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Md. Guddu @ Md. Arman Son Of Mohammad Mustafa @ Md. Mustafa
Resident Of Village - Mayaganj, Mustafapur, P.S. - Barari, District -
Bhagalpur

... .. Appellant/s

Versus

1. The State Of Bihar, Patna
2. Anil Kumar Rajak Son Of Late Changuri Rajak Resident Of Ganga Nagar
Colony, P.S. - Barari, District - Bhagalpur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Anita Kumari Singh
For the Respondent/s : Mr.Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

3 09-11-2023 Heard learned counsel for the appellant, learned

Special Public Prosecutor for the State and learned counsel for

the informant.

2. The instant appeal has been filed by the appellant
against the order dated 28.04.2023 passed by learned
Additional Sessions Judge-III, Bhagalpur whereby the prayer
for bail of the appellant in connection with Kotwali (Barari)
P.S. Case no. 1129 of 2022 under Sections 302 and 34 of the
Indian Penal Code, Section 27 of the Arms Act and Sections
3(2) (V) of the SC/ST Act was rejected.

3. Allegation against the appellant along with other



co-accused persons is that they committed murder of the grandson of the informant, namely, Rohit and one Sunny by firearms.

4. It is submitted by learned counsel for the appellant that appellant has been falsely implicated in this case due to previous enmity. 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. Informant is not the eye witness of the alleged occurrence. It is further submitted that nothing specific allegation of firing on the deceased against this appellant rather other co-accused person, namely, Babua fired upon one Rohit and co-accused Sahwaz fired upon one Sunny and these facts have come in the confessional statement of one Raja Kumar. It is also submitted that One Deepak Kumar who gave information about the occurrence to informant has also stated that other co-accused persons have fired upon the deceased. No any incriminating article or any weapon has been recovered from the conscious possession of the appellant which shows that he fired upon the deceased. A statement has been made in para-3 of this petition that the appellant has got no criminal antecedent. Moreover, he is languishing in judicial custody



since 06.12.2022.

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

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 28.04.2023 is hereby set aside.

7. The appellant is directed to be enlarged on bail in connection with Kotwali (Barari) P.S. Case No. 1129 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 Additional District Judge-III-cum-Special Judge SC/ST, Bhagalpur.

(Sunil Kumar Panwar, J)

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