

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2861 of 2022**

Arising Out of PS. Case No.-264 Year-2018 Thana- KUSHESHWARASTHAN District-
Darbhanga

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GANESH PODDAR SON OF RAMCHANDRA PODDAR R/O VILLAGE-
JHAJHA, P.S.- KUSHESHWAR ASTHAN, DISTRICT- DARBHANGA

... .. Appellant/s

Versus

1. The State of Bihar
2. Santosh Paswan Late Jaleshwar Paswan R/O Village- Jhajha, P.S.-
Kusheshwar Asthan, District-Darbhangha

... .. Respondent/s

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Appearance :

For the Appellant/s	:	M/s D.K.Sinha, Sr. Advocate Girish Chandra Jha Ashish, Advocates
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. P.P.
For the Respondent No.2:	:	Mr. Baidya Nath Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 04-01-2023 Heard learned senior counsel for the appellant,

learned Special P.P. for the State and learned counsel for the

respondent no. 2.

The instant appeal has been preferred against the order dated 2.7.2022 passed by learned 3rd Additional Sessions Judge – cum – Exclusive Special Judge, SC/ST (POA) Act, Darbhanga, whereby the prayer for bail of the appellant in connection with a case registered under sections 307, 341, 342, 323, 504, and 34 of the Indian Penal Code and sections 3(i)(r) and (s) of the SC and ST (Prevention of Atrocities) Act, was rejected.



As per the prosecution case, the appellant is stated to have resorted to firing hitting the informant in his chest.

It is submitted by learned senior counsel appearing for the appellant that the appellant has been falsely implicated in the case. The prayer for bail of the appellant was rejected on the first occasion by this Court by order dated 14.12.2020 passed in Cr. Appeal (SJ) no. 1738 of 2020 and subsequently by order dated 17.11.2021 passed in Cr. Appeal (SJ) no. 2862 of 2021. It is submitted that in the order of rejection dated 17.11.2021, liberty was granted by the appellant to renew his prayer for bail in case there is no substantial progress in the trial within a period of six months. In spite of the appellant having remained in custody since 21.1.2020 there is no progress whatsoever in the learned trial court and no chance of the trial concluding in the near future.

The prayer for bail is opposed by learned Special P.P. appearing for the State and learned counsel appearing for the respondent no. 2. It is submitted by learned counsel appearing for the respondent no. 2 that as per oral instructions received the trial is near conclusion. It is submitted that there is direct allegation against this petitioner and so the prayer for bail be rejected.



A report was called for from the learned trial court. .
As per the report received contained in letter dated 22.10.2022 of the learned 3rd Addl. Sessions Judge – cum – Exclusive Judge SC and ST (POA) Act, Darbhanga, the record is running on prosecution evidence and summon to witnesses has been issued on 26.3.2022 and the service report is still awaited.

Having heard learned counsel for the parties and having perused the material on records specially the contents of the report received from the learned trial court as contained in letter dated 22.10.2022 from which it transpires that no witness has been examined on behalf of the prosecution since 26.3.2022 inspite of summons having been issued together with the appellant having remained in custody since 21.1.2020, the Court is inclined to allow the instant appeal. The appeal is allowed and the order impugned dated 2.7.2022 passed in SC/ST/GR Case no. 233 of 2018 (arising out of Kusheshwar Asthan P.S. Case no. 264 of 2018) is set aside.

The appellant is directed to be enlarged on bail in connection with SC/ST/GR Case no. 233 of 2018 (arising out of Kusheshwar Asthan P.S. Case no. 264 of 2018) on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned



3rd Addl. Sessions Judge – cum – Exclusive Judge SC and ST
(POA) Act, Darbhanga.

(Partha Sarthy, J)

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