

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3248 of 2022**

Arising Out of PS. Case No.-1 Year-2022 Thana- SAKURABAD District- Jehanabad

CHHOTE SHARMA@CHOTE SHARMA@AVINASH S/O SHARDA
SHARMA @ SHARDANAND SHARMA RESIDENT OF VILLAGE-
HARNAKHAS, P.S.- SHAKURABAD, DISTRICT- JEHANABAD

... .. Appellant/s

Versus

1. The State of Bihar
2. Bakhora Paswan Late Gopal Paswan Resident of Village- Rustamchak, P.S.-
Sakurabad, District- Jehanabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Arbind Kumar Singh
For the Respondent No-1:		Ms. Usha Kumari 1
For the Respondent No-2:		Ms. Soni Kumari

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 19-01-2023 Heard Ld. counsel for the appellant, Ld. Special

Public Prosecutor for the State and Ld. Counsel for the

Informant/Respondent No-2.

This criminal appeal has been filed to enlarge the

appellant on bail, impugning the order dated 27.07.2022,

passed by Ld. Additional Sessions Judge-I-cum Spl. Judge

SC/ST Act, Jehanabad, in connection with Shakurabad P.S.

Case No. 01 of 2022, registered for the offences punishable

under Sections 341, 323, 302, 307, 504 and 34 of the

Indian Penal Code, Section 27 of the Arms Act and Sections

3(1)(r)(s), 3(2) (va) of the SC/ST Act, whereby bail has



been denied to the appellant.

The prosecution case as emerging from the FIR is that the appellant and his associates fired on the Informant and his friend Shambhu Yadav on account of previous enmity. Later on, informant's friend died due to gun shot injuries.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that as per the allegation in the FIR, at-most the appellant can be said to be the member of the unlawful assembly but there is no specific allegation of any overt act against him and the main allegation is against Vainketesh Sharma who has allegedly killed the victim by firearm. He also submits that investigation in this case is complete and charge-sheet has been submitted but the charge has not framed till date.

He further submits that the appellant has been languishing in jail since 22.05.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellant has no criminal antecedents.



It is also stated in paragraph no. 2 of the appeal that the appellant has not moved this Court earlier either for anticipatory bail or regular one.

However, Ld. Special Public Prosecutor for the State and Ld. Counsel for the Informant vehemently opposes the prayer of the appellant for bail.

Considering the aforesaid facts and circumstances, **this appeal is allowed**, setting aside the impugned order dated 27.07.2022, passed by Ld. Additional Sessions Judge-I-cum Spl. Judge SC/ST Act, Jehanabad, and directing the appellant to be enlarged on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Additional Sessions Judge-I-cum Spl. Judge SC/ST Act, Jehanabad in connection with Shakurabad P.S. Case No. 01 of 2022, **after framing of charge, if not already framed** on the following conditions:

(i) The appellant will make himself available for interrogation by a police officer/court as and when required.

(ii) The appellant will undertake that investigation/trial will not hamper on account of his absence



or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The appellant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the trial court that the appellant has any criminal antecedents, the Ld. trial court shall cancel the bail bonds of the appellant after hearing him and getting satisfied that the appellant has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the trial court that statement regarding previous bail appeal is wrong, the Ld. trial court shall cancel the bail bonds of the appellant.

Ld. counsel for the appellant is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the



certified copy of this order only after removal of office
objections.

(Jitendra Kumar, J)

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