

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3511 of 2022

Arising Out of PS. Case No.-44 Year-2022 Thana- PURNAHYA District- Sheohar

SHIVAM KUMAR Son of Mr. Sanjay Dwivedi @ Sanjay Dubey R/v- Bakhar
Chandiha, P.S- Purnahiya, Dist- Sheohar

... .. Appellant/s

Versus

1. The State of Bihar
2. Sunita Devi Wife of Sanjay Ram R/V- Bakhar Chandiha, P.S- Purnahiya,
Dist- Sheohar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Sr. Advocate Mr. Ritwik Thakur, Advocate Mrs. Vaishnavi Singh, Advocate
For the State	:	Mr. Binay Krishna, APP
For the Respondent No.2:	:	Mr. Ritesh Kumar Narain Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 18-05-2023 1. Heard learned senior counsel for the

appellant, learned APP for the State and learned counsel for the

respondent No.2.

2. The instant criminal appeal has been filed

under Section 14(A)(2) of the Scheduled Castes and the

Scheduled Tribes (Prevention of Atrocities) Act, against the

order dated 23.07.2022 passed by learned Additional Sessions

Judge 1-cum-Special Judge, SC/ST Sheohar in SC/ST Case

No.17 of 2022 arising out of Purnahiya P.S. Case No.44 of 2022

dated 09.03.2022 registered for the offence(s) punishable under

Section(s) 302, 307, 324/34 of the Indian Penal Code and



Section(s) 3(2)(va) and 3(2)(v) of SC/ST Act by which the appellant's prayer for bail has been rejected.

3. The main submissions advanced by learned senior counsel for the appellant are that in the present matter one person namely Dharmendra Kumar, who happens to be nephew of the informant, is stated to be the sole eye witness of the alleged occurrence and as per his statement recorded by him during investigation, the last part of the occurrence having taken place with the deceased was not committed in his presence and regarding the last alleged occurrence the said material witness similarly got the information regarding the allegations levelled against the appellant in the FIR and moreover there is a material conflict in between the allegations levelled by the said witness and the allegations levelled in the FIR as well as the allegations levelled by the other witnesses and appellant has been languishing in jail since 10th March, 2022.

4. Learned counsel appearing for the respondent No.2 has vehemently opposed the bail prayer of the appellant and submitted that the appellant is the main assailant and the allegations levelled against him get support from the postmortem report of the deceased.

5. Heard both the sides and perused the FIR, case diary and the impugned order. The instant matter relates to



the murder and attempt to murder and informant's son was brutally murdered by inflicting sharp cut injuries upon him and the informant's nephew namely Dharmendra Kumar is stated to be the eye witness of the alleged occurrence and the said witness also sustained injury in the alleged occurrence and according to the statement of Dharmendra Kumar the appellant was one of the assailants and he not only assaulted the deceased but also assaulted this witness by means of sharp edged weapon and on the body of the deceased three incised wounds and three chop wounds were found and the same get corroborated with the allegation levelled against this appellant in the FIR as well as levelled by the injured witness. Considering the seriousness of the allegation appearing against the appellant, in my opinion he does not deserve to the privilege of bail and the order impugned has been rightly passed, accordingly the instant appeal stands rejected.

6. As according to the submission made by learned counsel for the respondent No.2, the charge has not been framed upon the appellant, hence the Court concerned is directed to take steps to frame the charge upon the appellant as early as possible and thereafter expedite the trial of this appellant and take steps to conclude the same in the next 18



months and the appellant may renew his bail prayer after the
said period, if his trial is not concluded within the said period.

(Shailendra Singh, J)

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