

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.3696 of 2022**

Arising Out of PS. Case No.-249 Year-2022 Thana- MOTIHARI TOWN District- East  
Champaran

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Harendra Kumar Mishra, Son of Late Muktinath Mishra, R/v- Chatia  
Chintamanpur, P.S.- Malahi, District- East Champaran

... .. Appellant

Versus

1. The State of Bihar
2. Dinesh Kumar Das, Son of late Shyam Sundar Das, Resident of Mauza-  
Bishvampur, P.S-Yogapatti, District-West Champaran

... .. Respondent

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**Appearance :**

|                     |   |                                                                    |
|---------------------|---|--------------------------------------------------------------------|
| For the Appellants  | : | Ms. Madhuri Kumari                                                 |
| For the Respondents | : | Mr. Binay Krishna,<br>Mr. Kundan Rathore<br>Mr. Kamala Kant Tiwary |

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR**

ORAL ORDER

3      28-02-2023                      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 05.08.2022,  
passed by Ld. Special Judge, SC/ST (P.O.A) Act, East-  
Champaran in connection with Motihari Town P.S. Case No.  
249 of 2022, registered for the offences punishable under  
Sections 302 of the Indian Penal Code, Section 27 of the  
Arms Act, 1959 and Section 3(1)(r)(s), 3(2)(v) of the



Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, whereby bail has been denied to the appellant.

As per allegation, the sole accused/appellant has caused death to the alleged victim by fire arm injury on account of altercation.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He also submits that there is no eye-witness to the alleged offence and even the witnesses who have been examined as eye-witness by the IO are planted ones. He further submits that the nature of injury shows that there should have been instant death, instead, the dead body has been found at a distance of about fifty yards.

He further submits that the appellant has been languishing in jail since 07.04.2022.

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

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 oppose the prayer of the appellant for bail submitting that this is the only accused who has caused death by fire arm injury and witnesses present on the spot who have been examined, have supported the prosecution case.

Considering the nature of allegation and material on record, I am not persuaded to enlarge the appellant on bail at this stage. As such, there is no infirmities in the impugned order.

**This appeal is dismissed accordingly .**

However, Ld. Trial Court is directed to expedite the trial. In case, the trial is not concluded within a period of **One** year, the appellant will have liberty to renew his prayer for bail.

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)**

chandan/-

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