

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4319 of 2022

Arising Out of PS. Case No.-148 Year-2022 Thana- BARBIGHA District- Sheikhpura

SHIV KUMAR @ SHIVKANT KUMAR S/O GOPAL RAM Resident of
village- Birpur, P.S.- Barbigha, District- Sheikhpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. NITISH KUMAR S/O BRAMHDEO PASWAN Resident of village-
Barbigha, District- Sheikhpura.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dr. Anjani Pd. Singh
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 26-04-2023

Re: I.A. 01 of 2023

This application has been filed for condonation of
delay of 4 days in preferring the appeal.

After having considered the averments made in the
application, I am satisfied that the appellant had sufficient cause
for not preferring the appeal within the prescribed statutory
period. Accordingly, and in the interest of justice the delay in
preferring this appeal is hereby condoned.

I.A. No. 01 of 2023 stands allowed.

Cr. Appeal (SJ) No. 4319 of 2022

Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

Learned Spl. PP for the State, in compliance of order
dated 22.03.2023, informed the informant/complainant. Nobody



appeared on behalf of the informant/complainant.

This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the SC/ST Act), against the refusal of prayer of anticipatory bail vide order dated 02.09.2022 passed by learned 1st Additional District and Sessions Judge, Sheikhpura, in connection with Barbigha P.S. Case No. 148 of 2022 registered under Sections 147, 149, 341, 323 and 504 of the Indian Penal Code and Section 3(i)(r)(s)/ 3(1)(zac) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 27 of the Arms Act.

As per the prosecution case, it is alleged that all the accused persons named in the F.I.R. along with the appellant armed with lathi, danda, paina, assaulted and abused the informant by taking caste name.

Learned counsel for the appellant submits that the appellant has not concern with the aforesaid occurrence. There is no allegation of slating the informant in the specific name of his caste. Hence, no offence under Section SC/ST Act is made out against the appellant. He submits that there is case and counter case between the parties. Similarly situated co-accused



has been enlarged on bail by a co-ordinate Bench of this Court passed in Cr. Appeal (SJ) No. 2711 of 2022 vide order dated 20.01.2023. Appellant has got no antecedent as mentioned in para-3 of memo of the appeal.

Learned Spl. PP for the State opposes payer for bail and submits that the appellant abuses the respondent no. 2/informant by taking caste name.

Considering the facts and circumstances of the case and the fact that similarly situated co-accused has been enlarged on bail, let the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions Judge, Sheikhpura, in connection with Barbigha P.S. Case No. 148 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

anand/-

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