

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.435 of 2024**

Arising Out of PS. Case No.-250 Year-2022 Thana- CHERIYA BARIYARPUR District-
Begusarai

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RAJESH KUMAR Son of Shankar Singh @ Ram Shankar Singh Resident of
Village-Khamhar (Ward No.-09), P.S.-Muffasil, Dist.-Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. KAUSHALAYA DEVI Wife of Sikandar Ram Resident of Village-Hasanpur
Nagar, P.S.-Naokothi, Dist.-Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Sandip Kr Gautam, Adv.
For the Resp No. 2	:	Mr. Braj Bhusan Poddar, Adv.
For the Respondent/s	:	Mr.Usha Kumari 1, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 02-05-2024 Heard learned counsel for the appellant and learned

counsel for the respondent no. 2 as well as learned Special

Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the

Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 against the rejection of prayer for bail vide

order dated 21.12.2023 passed by the learned Exclusive Special

Judge, SC/ST (POA) Act, Begusarai in connection Cheriya

Bariyarpur P.S. Case No. 250 of 2022 dated 24.09.2022

registered for the offence/s punishable u/ss 304, 120B read with

section 34 of the Indian Penal Code and 3(i)(r)(s) / 3(2) (v-a) of



the SC/ST (POA) Act.

3. As per the prosecution case, the appellant is alleged to have come to the informant's house and offered free medical test and cheap diagnosis for pregnant lady in Life Care Hospital, Manjhaul. Thereafter, the accused persons called up the informant along with her pregnant daughter-in-law for medical test and the other accused persons conducted the delivery operation without the consent of the informant due to that his daughter-in-law along with her new born baby died and they threw the dead body of the new born baby in a ditch.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the alleged incident hence no case is made out under section SC/ST Act. Similarly situated co-accused has already been granted anticipatory bail by this Court vide order dated 15.12.2023 passed in Cr. Appeal (SJ) No. 2635 of 2023. The appellant has no criminal antecedent as stated in para 3 of the bail petition. The appellant is in custody since 27.02.2023.



5. Learned counsel for the respondent no. 2 as well as learned Spl. P.P. for the State has vehemently opposed the bail petition of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 21.12.2023 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai in connection Cheriya Bariyarpur P.S. Case No. 250 of 2022, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai in connection Cheriya Bariyarpur P.S. Case No. 250 of 2022.

(Chandra Prakash Singh, J)

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