

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1002 of 2024

Arising Out of PS. Case No.-365 Year-2023 Thana- KORHA District- Katihar

Shahnawaz Alam @ Mukhiya son of Abdul Khalid @ Abdul Khalique R/o-
Pawai Ps- Korha Dist- Katihar

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Nandani Kumari D/o- Gopi Das R/o- Jayantigram Pawai, W.No- 12, Ps-
Korha Dist- Katihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjeev Kumar Singh, Adv.
For the Respondent/s : Mr.Usha Kumari 1, Spl.pp

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

ORAL ORDER

3 02-05-2024 Heard learned counsel for the appellant and 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 20.01.2024 passed by the learned court of Additional Sessions Judge-1 cum Special Judge, SC/ST (POA) Act, in connection Korha P.S. Case No. 365 of 2023 dated 24.09.2023 registered for the offence/s punishable u/ss 302, 307, 324, 326 read with section 34 of the Indian Penal Code, 27 of the Arms Act and 3(2)(v)(va) of the SC/ST (POA) Act.

3. As per the prosecution case, the appellant and the



co-accused persons are alleged to have entered the house of the informant and Md. Sahil fired on the stomach of the informant's brother causing injury thereafter, the appellant also fired in the courtyard. When the informant's uncle tried to catch the accused persons, in the meantime, the co-accused Anil Sharma fired on his stomach due to that he died on the spot and they fled away.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. There is no specific allegation of firing against the appellant. The specific allegation of firing is against the co-accused, Md. Sahil and Anil Sharma. 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. The appellant has no criminal antecedent as stated in para 3 of the bail petition. The appellant is in custody since 25.09.2023.

5. 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 20.01.2024 passed by the learned court of Additional Sessions Judge-1 cum Special Judge, SC/ST (POA) Act, in connection Korha P.S. Case No. 365 of 2023, 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 court of Additional Sessions Judge-1 cum Special Judge, SC/ST (POA) Act, in connection Korha P.S. Case No. 365 of 2023.

(Chandra Prakash Singh, J)

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