

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.930 of 2024

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

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Raushan Kumar S/O- Rama Nand Singh @ Ram Chandra Thakur R/O-
Village- Khamhar, P.S.- Begusarai, Dist.- Begusarai.

... .. Appellant/s

Versus

1. The State Of Bihar, Patna
2. Kaushalaya Devi W/O- Sikandar Ram R/O- Village- Hasanpur Bagar, P.S.-
Navkothi, Dist.- Begusarai.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Umesh Kumar Sharma, Adv.

For the Respondent/s : Mr. Usha Kumari 1, Spl. PP

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

ORAL ORDER

3 05-07-2024 Heard learned counsel for the appellant and learned

counsel for the informant 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 against the rejection of prayer for anticipatory

bail vide order dated 29.01.2024 passed by the learned

Exclusive Special Judge, SC/ST (POA) Act, Begusarai in

A.B.A. No. 2764 of 2023 arising out of Cheria Bariyarpur P.S.

Case No. 250 of 2022 dated 24.09.2022 registered for the

offence/s punishable u/ss 304, 120(B)/ 34 of the Indian Penal

Code and 3(1)(r),(s)/3(2)(v) of the SC/ST (POA) Act.

3. As per the prosecution case, the co-accused along with others conducted deliberately the operation without consent of the informant and her family members, due to which fetus and mother had died. It is further alleged that the co-accused, Amardeep Kumar is the proprietor of the said hospital. When the informant was said to be deposited the said amount by the co-accused, Amardeep Kumar, then he denied the same then the co-accused, Amardeep Kumar abused the informant by calling her caste name.

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 been granted anticipatory bail by the Co-ordinate Bench of this Court vide order dated 08.12.2023 passed in Cr. Appeal (SJ) No. 200 of 2023. It is further submitted that the appellant has not conducted any operation. The appellant has no criminal antecedent as stated in para 3 of the bail petition.

5. Learned counsel for the informant as well as

learned Spl. P.P. for the State has vehemently opposed the anticipatory 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 29.01.2024 passed by learned Exclusive Special Judge, SC/ST (PoA) Act, Begusarai in connection with Cheria 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, in the event of his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory 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 with Cheria Bariyarpur P.S. Case No. 250 of 2022 subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

(Chandra Prakash Singh, J)

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