

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1721 of 2024

Arising Out of PS. Case No.-406 Year-2023 Thana- BACHHWARA District- Begusarai

1. Jai Ram Mahto Son of Sheka Mahto Village- Rajauli Chautha, Ward No. 13, P.S.- Bachhwara, District- Begusarai
2. Amresh Kumar Son of Fulena Mahto @ Fucho Mahato Resident of Village- Rajauli Chautha, Ward No. 13, P.S.- Bachhawara, District- Begusarai

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Uma Shankar, Advocate Mr. Prem Kumar, Advocate
For the State	:	Mr. Binay Krishna, SPP
For the Informant	:	Mr. Dilip Kumar Roy, Advocate

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 23-08-2024 Heard learned counsel for the appellants, learned Special Public Prosecutor for the State and learned counsel for the informant.

2. The instant appeal has been filed by the appellants against the order dated 23-02-2024 passed by learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai whereby the prayer for bail of the appellants in connection with Bachhwara PS Case No. 406 of 2023 under Sections 307/34 of the IPC and Section 27 of the Arms Act and Section 3(2)(v) of SC/ST Act was rejected.

3. Prosecution case, in short, is that the appellant along with other co-accused persons fired gun shot on the



mother-in-law of the informant in the market due to which she became unconscious.

4. Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. Charge-sheet has been submitted in this case. It is submitted that there is no specific allegation against the appellant No.1, rather allegation is general and omnibus. So far as appellant No.2 is concerned, it is alleged that he has fired upon the mother-in-law of the informant. Learned counsel for the appellants further submits that the appellants have not taken the caste name of the informant in public view. Hence, no offence under the provisions of SC/ST Act is made out against them. The appellants have no intention to disgrace the image of the informant in public view. The appellants are in custody since 19-12-2023 and has no criminal antecedent. Co-accused has been granted bail by a Coordinate Bench of this Court *vide* order dated 26-06-2024 passed in Cr. Appeal (S.J.) No. 1593 of 2024.

5. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the petitioner. It is submitted that there is specific allegation of firing against the appellant No.2.



6. Considering the aforesaid facts and circumstances of the case, there being no direct allegation against the appellant No.1 and the period of custody undergone by the appellant No.1, this Court is inclined to allow this appeal only to the extent of appellant No.1. Accordingly, the appeal is allowed and order dated 23-02-2024 passed by learned Exclusive Special Judge, SC/ST (POA) Act, Begusarai is hereby set aside only to the extent of appellant No.1.

7. Let the appellant No.1 be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Bachhwara PS Case No. 406 of 2023.

8. So far as appellant No.2 is concerned, there is direct allegation of firing against him. Accordingly, this Court is not inclined to grant bail to appellant No.2. Prayer is *rejected* as against appellant No.2.

9. However, appellant No.2 will be at liberty to renew his prayer for grant of bail if the trial is not concluded within a period of six months.

(Rudra Prakash Mishra, J)

Raj kishore/-

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