

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1671 of 2024

Arising Out of PS. Case No.-303 Year-2022 Thana- KALYANPUR District- Samastipur

Bhushan Sah @ Shashi Bhushan Sah Son of Lakho Sah Resident of Village-
Maniyarpur, Police Station- Kalyanpur, Dist.- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Rahul Kumar Son of Late Ranjeet Chaudhary Resident of Village-
Shivandan Pur, P.S.- Kalyanpur, Dist.- Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bijay Bhushan Prasad, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Special P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 28-06-2024 Heard Mr. Bijay Bhushan Prasad, learned counsel
appearing for the appellant and Mr. Sadanand Paswan, learned
Special Public Prosecutor for the State.

2. This is an appeal under Sections 14(A)(ii) of the
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act (hereinafter referred to as the “SC/ST Act”) against the
refusal of prayer for regular bail vide order dated 13.04.2023
passed by the learned Special Judge SC/ST (POA) Act, Samastipur
in connection with Trial No. 1682 of 2024 arising out of
Kalyanpur P.S. Case No. 303 of 2022, F.I.R. dated 28.09.2022
registered under Sections 341, 302, 504/34 of the Indian Penal
Code, Section 27 of the Arms Act whereas charge-sheet was
submitted under Sections 341, 323, 324, 307, 302, 504/34 of the
Indian Penal Code, Section 27 of the Arms Act and under Sections



3(2)(v) of the SC/ST (POA) Act.

3. According to prosecution case, the appellant is alleged to have fired gun shot indiscriminately upon the informant and his father, due to which his father died.

4. Learned counsel for the appellant submits that the appellant has clean antecedent and he has been falsely implicated in the present case. Earlier the appellant has moved for grant of bail in Cr. Misc. No. 39462 of 2023 which was rejected by order dated 18.09.2023. Learned counsel for the appellant further submits that the allegation as alleged in the F.I.R. is false and fabricated and the appellant has not committed any offence as alleged in the F.I.R. and the informant is not an eye witness of the alleged occurrence. He further submits that from a bare perusal of the F.I.R. it appears that the date of occurrence as alleged in the F.I.R. is 26.09.2022 and the present F.I.R. was instituted on 28.09.2022 after delay of two days without giving any explanation of delay and it appears from the F.I.R. itself that there is no specific accusation of firing attributed against the appellant and the allegation of firing attributed against co-accused person namely Sonu Kumar @ Sonu Kumar Sah who has fired upon the victim.

5. Learned Special Public Prosecutor for the State, on the other hand, vehemently opposed the prayer for bail of the appellant and submits that earlier the bail petition of the



appellant was rejected on merit and apart from that it has come during investigation in paragraph-88 of the case diary that the injured victim Ram Sunil Paswan has categorically stated that the appellant has fired upon the deceased and co-accused person namely Sonu Kumar @ Sonu Kumar Sah has also fired upon the deceased as well as on the injured person.

6. Vide order dated 10.04.2024 a report was called for with regard to the stage of the trial. Report dated 26.04.2024 of the learned Trial Court reveals that charge could not be framed till date.

7. Considering the facts and circumstances of the case as well as report of the learned Trial Court, I am not inclined to enlarge the appellant on bail in connection with Trial No. 1682 of 2024 arising out of Kalyanpur P.S. Case No. 303 of 2022 pending in the Court of learned Sspecial Judge SC/ST (POA) Act, Samastipur.

8. Prayer is refused.

9. However, the appellant may renew his prayer for bail after framing of charge.

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(Rajesh Kumar Verma, J)

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