

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2054 of 2024

Arising Out of PS. Case No.-249 Year-2022 Thana- MOTIHARI TOWN District- East
Champaran

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Harendra Kumar Mishra @ Harendra Kishor Mishra Son of Muktinath
Mishra Resident of village - Chintamanpur, P.S.- Malahi, District - East
Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dinesh Kumar Das Son of Late Shyam Sundar Das Resident of village -
Bishrampur, P.S.- Yogapatti, District - East Champaran.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Ranjan No.1, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 17-05-2024 Heard Ld. counsel for the Appellant and Ld. Special

Public Prosecutor for the State.

2. The present Appeal has been filed to enlarge the

Appellant on bail, impugning the order dated 07.03.2024,
passed by Ld. Special Judge SC/ST (P.O.A) Act, East
Champaran at Motihari, in connection with Trial No. 75 of 2022
arising out of Motihari Town P.S. Case No. 249 of 2022, dated
06.04.2022 registered for the offences punishable under Section
302 of the Indian Penal Code, Section 27 of the Arms Act, 1959
and Section 3(1)(r)(s), 3(2)(v) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby
bail has been denied to the Appellant.



3. As per allegation, the sole Accused/Appellant has caused death to the alleged victim by fire arm injury on account of altercation.

4. Ld. Counsel for the Appellant submits that the Appellant has preferred bail petition before Ld. Trial Court, however, vide order dated 07.03.2024, the bail petition of the Appellant has been dismissed. He further submits that earlier the Appellant had preferred bail petition before this Court *vide* Cr. Appeal (SJ) No. 3696 of 2022, which was rejected by the order dated 28.02.2023 with an observation that if the trial is not concluded within one year, the Appellant would be at liberty to renew his prayer for bail. He further submits that since the trial has not been concluded in the stipulated time, the Appellant, *vide* present Appeal, has renewed his prayer for bail. He next submits that the Appellant is innocent and has falsely been implicated in this case. There is no eye-witness to the alleged occurrence and even the witnesses, who have been examined as eye-witness by the Investigating Officer are planted ones.

5. Ld. Counsel for the Appellant further submits that the nature of injury shows that there should have been instant death, instead, the dead body has been found at a distance of about fifty yards. He also submits that out of 13 prosecution



witnesses, only two witnesses have been examined.

6. The Appellant has been languishing in jail since 07.04.2022.

7. It has also been stated in paragraph no. 3 of the appeal that the Appellant has no criminal antecedents.

8. However, Ld. Special Public Prosecutor for the State vehemently opposes the prayer of the Appellant for bail.

9. Considering the aforesaid facts and circumstances and the fact that the trial has not been concluded within the stipulated time, the appeal is allowed, setting aside the impugned order dated 07.03.2024, passed by Ld. Special Judge SC/ST (P.O.A.) Act, East Champaran at Motihari and directing the Appellant to be released on bail on his furnishing bail bonds in the sum of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Special Judge SC/ST (P.O.A.) Act, East Champaran at Motihari, in connection with Trial No. 75 of 2022 arising out of Motihari Town P.S. Case No. 249 of 2022 on the following conditions:

(i) The Appellant will make himself available for interrogation by a police officer/court as and when required.

(ii) The Appellant will undertake that investigation/trial will not hamper on account of his absence or



non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The Appellant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

(iv) In case, it is brought to the notice of the trial court that the Appellant has any criminal antecedents, the Ld. trial court shall cancel the bail bonds of the appellant after hearing him and getting satisfied that the appellant has concealed his criminal antecedents despite his knowledge of the same.

(v) In case, it is brought to the notice of the trial court that statement regarding previous bail appeal is wrong, the Ld. trial court shall cancel the bail bonds of the Appellant.

Shoaib/S.Ali

(Jitendra Kumar, J.)

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