

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2139 of 2024

Arising Out of PS. Case No.-523 Year-2021 Thana- BARH District- Patna

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Kanahaiya @ Kanhiya Singh @ Kanhiya Kumar Son Of Ganesh Prasad Singh
Resident Of Village - Bedhna, P.S. - Barh, District - Patna

... .. Appellant/s

Versus

1. The State Of Bihar
2. Dharam Raj Kumar Son Of Ganesh Prasad Singh Resident Of Village -
Bedhna, P.S. - Barh, District - Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Kalpana

For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

3 19-07-2024 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State.

2. The instant appeal has been filed by the appellant second times against the order dated 5.8.2023 passed by learned Exclusive Spl. Judge, SC/ST Patna in Spl. Case No. 16 of 2022 arising out of Barh P.S. Case No. 523 of 2021 whereby the prayer for bail of the appellant under Sections 307, 302, 120(B)/34 of the Indian Penal Code, Section 27 of the Arms Act and sections 3(2)(v) of SC/ST Act was rejected.

3. Earlier the bail application of the appellant was rejected by this Court vide order dt. 18.01.2024 passed in Cr. Appeal (SJ) No. 4448 of 2023 with a direction to trial court to



expedite and conclude the trial as soon as possible.

3. As per allegation in the FIR, appellant along with other co-accused sitting outside the marriage hall, appellant and co-accused having pistol in their hand, fired upon the informant's brother as a result of which he sustained bullet injury in his chest, stomach and waist. Specific allegation against the appellant is of firing upon Lal Bahadur which hit on his leg.

4. It is submitted by learned counsel for the appellant that appellant has been falsely implicated in this case. In this case, similar situated co-accused person, namely, Rakesh Kumar has already been enlarged on bail against whom there is also allegation of firing causing injury in the leg of Rajesh Kumar, who died in course of treatment but the postmortem report suggests that deceased sustained only one gunshot injury. No offence is made out under the provisions of the SC/ST Act against them.

5. Learned counsel for the appellant further submits that there is no hope to conclude the trial in near future. He is languishing in judicial custody since 27.01.2023.

6. The appeal for bail is opposed by learned Spl. P.P. for the State and learned counsel for the informant and



submitted that bail prayer of similarly situated other accused person has already been rejected by this Court vide order dated 25.6.2024 passed in Cr. Appeal (SJ) No. 1843 of 2024.

Having heard learned counsel for the parties and considering the period of custody of the appellant, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 5.8.2023 passed in Spl. Case No. 16 of 2022 is hereby set aside.

The appellant is directed to be enlarged on bail in connection with Barh P.S. Case 523 of 2021 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Exclusive Spl. Court, SC/ST Act, Patna with following conditions:

(1) Petitioner shall co-operate in the trial and shall be present on each and every fixed date and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

(ii) If the petitioner tampers with the evidence or threatens the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iii) In case, the petitioner repeats offence of similar



nature after enlargement on bail, his bail-bonds will be cancelled by the court below.

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(Sunil Kumar Panwar, J)

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