

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2149 of 2024

Arising Out of PS. Case No.-249 Year-2023 Thana- BACHHWARA District- Begusarai

Nikhil Kumar Son of Ram Nath Ishwar Resident of Village - Bharoul, PS-
Bachhwara, District- Begusarai

... .. Appellant/s

Versus

1. The State Of Bihar Through The Special P.P. S.C. And S.T. (Prevention Of Atrocities) Act Bihar
2. Pragas Paswan Son Of Late Udgar Paswan Resident Of Village - Bharoul, Ps- Bachhwara, District- Begusarai

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sunil Kumar Sharma, Advocate
For the Respondent/s : Mr. Binay Krishna, Special P.P.

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

3 12-07-2024 Heard learned counsel for the appellant and learned
Special P.P. for the State.

None appears for the informant. Learned Special P.P.
has submitted that the informant has been communicated with
regards to the court proceedings.

2. The appellants have preferred the present appeal
filed under Section 14(A)(2) of the Scheduled Castes and the
Scheduled Tribes(Prevention of Atrocities) Act, 1989 against
the order dated 11.03.2024 passed by the learned Exclusive
Special Judge, SC/ST(POA) Act, Begusarai arising out of
Bachhwara Police Station Case No. 249 of 2023 instituted for
an alleged offences punishable under Sections 302, 120(B) and



34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v) of the SC/ST Act (Prevention of Atrocities) Act, 1989 by which the appellant prayer for bail was rejected.

3. As per allegation in the FIR, the informant heard some commotion and went with his wife along with other co-villagers and saw that the appellant and other co-accused persons were surrounding the son of the informant and they were assaulting and abusing the son of the informant(deceased), further fired shots at him and killed the deceased.

4. Learned counsel for the appellants have submitted that the appellant has committed no offence and have falsely been implicated in this case. He next submits that the fire arm injuries are on the leg and head of the deceased and there is contradiction on the written statement given by the informant with regards to the place and time of the alleged occurrence and appellant is in custody since 19.08.2023. He next submits that one co-accused persons, namely, Shilwant Ishwar in Cr. Appeal(SJ) No. 5682 of 2023 and Pintu Nonia in Cr.Appeal (SJ) No.4916 of 2023 have already been granted bail by Co-ordinate Bench of this Court.

5. However, learned Special P.P. for the State have opposes the prayer for bail.



6. On perusal of the FIR, impugned order dated 11.03.2024 and the case diary, it appears that the appellant is the main assailant along with other named co-accused persons who were present at the place of occurrence. Further on perusal of the case diary in paragraphy nos.11 and 12, it appears that appellant has fired gun shot at the son of the informant. The witnesses have also stated that one Manjeet Kumar, Sunil Kumar and the appellant have fired upon the son of the informant resulting to the death of the son of the informant. The postmortem report also reveals that the death was caused due to neurogenic and haemorrhage as a result of injuries caused by fire arm. Pintu Nonia in Cr.Appeal (SJ) No.4916 of 2023, who has been granted bail as submitted by the learned counsel for the appellant is based on the fact that appellant was not named in the FIR and there is no specific allegation against him. The other appellant, i.e., Shilwant Ishwar has been granted bail as the allegation against Shilwant Ishwar was of hitting the deceased with stone on his head. This allegation is of different footing as the postmortem report clearly shows that the death is caused due to firearm injuries and the appellant in this present case has specific allegation of causing firearm injury which ultimately lead to the death of the son of the informant.



Considering the above facts and circumstances and the fact that the appellant is the main assailant in the present case, I am not inclined to grant bail to appellant.

7. Accordingly, the prayer for bail of the appellant is hereby rejected.

(Ramesh Chand Malviya, J)

Brajesh Kumar/-

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