

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3088 of 2023**

Arising Out of PS. Case No.-128 Year-2022 Thana- SAHIYARA District- Sitamarhi

AWADHESH THAKUR S/O LATE SITARAM THAKUR R/O Village-
Sahiyara, P.S- Sahiyara, Distt.- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Rubi Devi W/O Umesh Thakur R/O Village- Sahiyara, Ward No. 6, P.S-
Sahiyara, Distt.- Sitamarhi.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ashok Kumar Garg
For the Respondent/s : Mr.Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

14 02-05-2024 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the SC/ST Act) against the refusal of prayer of bail *vide* order dated 15.06.2023 passed by the learned 1st Additional Sessions Judge Cum- Special Judge, SC/ST Act, Sitamarhi in connection with Sahiyara P.S. Case No. 128 of 2022 dated 26.09.2022 registered for the offence/s punishable u/ss 307 and 120B read with 34 of the Indian Penal Code, Section 25(1-B)a, 26, 35 and 37 of the Arms Act and Sections 3(1)(r)(s) of the SC/ST Act.



3. As per the prosecution case, some villagers informed the informant that her husband was shot by some miscreants who were apprehended by the villagers along with their pistol, mobile phone and motorcycle. In the meantime, the informant took her husband for treatment. Further, the informant stated that there is a land dispute between informant's husband and cousin father-in-law, Sitaram Thakur and the petitioner, for which she had also lodged a case. The petitioner and the co-accused, Sitaram Thakur always threatened to kill her husband. The apprehended criminal confessed that on instigation of the co-accused, Sitaram Thakur and the petitioner, they came to kill the husband of the informant.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no particular caste name has been called by the appellant hence no case is made out under section SC/ST Act. The appellant has one criminal antecedent as stated at para 3 of the bail petition. The appellant is in custody since 27.09.2022.

5. Learned Spl. P.P. for the State has vehemently opposed the prayer of bail.



6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 15.06.2023 passed by the learned 1st Additional Sessions Judge Cum- Special Judge, SC/ST Act, Sitamarhi in connection with Sahiyara P.S. Case No. 128 of 2022 is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge Cum- Special Judge, SC/ST Act, Sitamarhi in connection with Sahiyara P.S. Case No. 128 of 2022, with the condition:-

(i). The appellant is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellant are liable to be cancelled.

(Chandra Prakash Singh, J)

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