

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3341 of 2023

Arising Out of PS. Case No.-257 Year-2020 Thana- KOTWA District- East Champaran

Santosh Sah Son of Prayag Sah Resident of Village- Banvirwa @ Banbirawa,
P.S.- Kotwa, Distt- East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Raju Paswan Late Rahan Paswan Resident of Village- Jasauli Patti, P.S.-
Kotwa, District- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Krishna Prasad Singh, Sr. Adv. Mr. Sanjay Kumar, Adv.
For the State	:	Mr. Binay Krishna, SPP
For the Resp. No.2	:	Mr. Praveen Kumar, Adv.

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

6 04-04-2024 Heard Mr. Krishna Prasad Singh, learned senior Advocate for the appellant, Mr. Binay Krishna, learned Special Public Prosecutor for the State and Mr. Praveen Kumar, learned counsel for the Respondent No.2. Perused the case diary.

2. The instant appeal has been filed by the appellant against the order dated 19.01.2023 passed by learned Special Judge SC/ST Act, East Champaran, Motihari, whereby, the prayer for bail of the appellant in connection with Kotwa P.S. Case No. 257 of 2020 under Sections 302 of the Indian Penal Code and Section 27 of the Arms Act and Section 3(2)(iv)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of



Atrocities) Act in Trial No. 09 of 2021, was rejected.

3. Earlier the appellant had preferred his regular bail petition before this Court in Cr. Misc. No. 14699 of 2021 which was dismissed vide order dated 16.08.2021 passed by a Co-ordinate Bench of this Court. Thereafter, the appellant filed Cr. Appeal (SJ) No. 486 of 2022 which was also dismissed vide order dated 16.02.2022 passed by the Co-ordinate Bench of this Court with an observation that the trial Court would make all endeavors to ensure expeditious conclusion of the trial, without any unnecessary adjournment or delay. The appellant again filed Cr. Appeal (SJ) No. 3053 of 2022 which was withdrawn vide order dated 23.11.2022 with an observation that in the event, such prayer is renewed before the trial court, it goes without saying that the court should consider the appellant's application without any manner being affected by the rejection of the prayer for bail by this Court, earlier in Cr. Appeal (SJ) No. 486 of 2022.

4. As per prosecution case, the allegation against the appellant is of firing at the top of the left eye of the deceased due to which he sustained grievous gun-shot injury and succumbed to the fire-arm injuries.

5. Learned counsel for the appellant submits that the



appellant has falsely been implicated in the present case due to dirty village party politics. The appellant was arrested by the police but, nothing incriminating was found from his possession and there is also no confession of the appellant before the police to corroborate the allegation made in the F.I.R. The charges have been framed against the petitioner on 26.08.2021 but, till date, not a single witness has been examined by the prosecution in support of the prosecution case and, thus, there is no likelihood of completion of the trial in near future. He further submits that earlier the prayer for bail of the appellant was rejected by the the Co-ordinate Bench of this Court with a direction to the trial court to expedite the conclusion of the trial but, no specific time-frame was prescribed. The appellant is languishing in judicial custody since 07.10.2020 and has no criminal antecedent.

6. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the appellant stating that the allegation made against the appellant is serious in nature and the postmortem report also supports the prosecution case.

7. Pursuant to the earlier order passed by a Co-ordinate Bench of this Court, the Trial Court has sent a report



regarding stage of the trial dated 18.01.2024 stating therein that the case is at the stage of prosecution evidence and two witnesses out of twelve witnesses list in the charge-sheet have been examined. In this case summons has already been issued to the private witnesses and the trial is likely to be concluded within six months.

8. Considering the aforesaid facts and circumstances of the case, the nature of accusation against the petitioner as also considering the report sent by the trial court, this Court is not inclined to grant bail to the appeal at this stage.

9. Accordingly, the prayer for bail of the appellant is rejected without a direction to the court below to expedite the trial and conclude the same within a period of six months from the date of receipt/production of a copy of this order.

10. If the trial is not concluded within the aforesaid period of six months, the appellant will be at liberty to renew his prayer for bail before the court below which will be disposed of on its merit without being prejudiced by this order.

11. The District Magistrate, East Champaran, Motihari and the Superintendent of Police, East Champaran, Motihari are directed to ensure presence of the prosecution witnesses as and when they are required by the Trial Court.



12. Let a copy of this order be sent to the District Magistrate, East Champaran and the Superintendent of Police, East Champaran for the strict compliance of this order.

13. The appeal stands disposed of.

(Rudra Prakash Mishra, J)

rishi/-

U		T	
---	--	---	--

