

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4526 of 2023

Arising Out of PS. Case No.-1129 Year-2022 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

MD. SAHBAZ Son of Md Abdul Matin Rain @ Matin Rain @ Maito R/o-
Mayaganj, Ps- Barari, Dist- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Anil Kumar Rajak Son of late Changuri Rajak Village- Ganganagar Colony
BP Trading Gas Godown PS- Barari Dist- Bhagalpur

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 3233 of 2023

Arising Out of PS. Case No.-1129 Year-2022 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

MD BABUWA @ MD SHAHANAWAJ Son of Late Md. Aslam @ Mantush
Resident of Village/Mohalla-Mayaganj, P.S.-Barari, District-Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar
2. ANIL KUAMR RAJAK Son of Late Changuri Rajak Resident of Village-
Ganganagar Colony, B.P. Trading Gas Godown, P.S.-Bararti, Distt-
Bhagalpur

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 4526 of 2023)

For the Appellant/s : Mr.Harsh Singh, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

(In CRIMINAL APPEAL (SJ) No. 3233 of 2023)

For the Appellant/s : Mr.Swapnil Kumar Singh, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

6 05-04-2024 Earlier vide order dated 01.02.2024, the notice was

served to opposite party no.2 but no one appears on behalf of



the opposite party no.2.

2. Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

3. The instant appeal has been filed by the appellants against the order dated 08.08.2023 and 19.05.2023 passed by learned Additional District and Sessions Judge-III-cum-Special Judge(SC/ST) Act, Bhagalpur and learned Additional Sessions Judge-III, Bhagalpur respectively whereby the prayer for bail of the appellants in connection with Kotwali (Barari) P.S. Case No. 1129 of 2022 under Sections 302, 120B and 34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of SC/ST Act was rejected.

4. As per prosecution case, the informant got the information from one Deepak Kumar Das that the appellants and other co-accused persons have fired upon his grandson Rohit Kumar and one Sunny Paswan. Thereafter, the informant reached the place of occurrence along with his family member and found that Rohit and Sunny both were lying on the ground in the pool of blood. It is further alleged that one month prior to the date of occurrence the deceased grandson had informed the informant that all the accused persons had threatened to kill the deceased namely, Rohit at Refugee Colony.



5. It is submitted by learned counsel for the appellants that appellants have been falsely implicated in this case due to dirty village politics. They have not taken the cast name of the informant in public view as such, no offence is made out under the provisions of the SC/ST Act against them. The informant is not the eye witness of the alleged occurrence. Nothing incriminating article or weapon has been recovered from the possession of the appellants. They are languishing in judicial custody since 06.12.2023 and 05.01.2023 respectively.

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

7. From perusal of the F.I.R., impugned order dated 08.08.2023 and 19.05.2023, case diary along with postmortem report of both of the deceased Rohit and Sunny Paswan, it appears that on the basis of written report of informant Anil Kumar Rajak F.I.R. registered against three accused persons including the present appellants. On perusal of F.I.R., it appears that one Deepak Kumar Das is the eye witness of this case who has categorically stated in para 262 of the case diary about the involvement of both of the appellants and supported the version of the F.I.R. Other witnesses of this case have also supported the version of the F.I.R. Further, in the postmortem report of both of the deceased doctor opined that cause of death is Haemorrhage and shock due to



firearm injury. So, it is a case of double murder and there is specific allegation against the appellants.

8. Considering the aforesaid facts and circumstance of the case and submissions of learned counsel for the parties, I do not find it appropriate to grant bail to the appellants and as such, the appeal stands rejected.

9. The trial Court is directed to expedite the trial and conclude the same as early as possible.

(Ramesh Chand Malviya, J)

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