

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5133 of 2023**

Arising Out of PS. Case No.-93 Year-2023 Thana- PARBATTa District- Bhagalpur

SHIVAM KUMAR Son of Pawan Sah RESIDENT OF VILLAGE BOTAL
TOLA, SAHU PARBATTa, PS PARBATTa, DISTT - BHAGALPUR

... .. Appellant/s

Versus

1. The State of Bihar
2. Dinesh Das Son of Pawan Sah R/o vill - Botal Tola (Sahu Parbatta), P.S -
Parbatta, Distt. - Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kamlesh Kumar Pathak
For the Respondent/s : Mr. Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER**

3 12-01-2024 Heard learned counsel for the appellant, learned
counsel for the informant and learned Special Public Prosecutor
for the State.

2. The instant appeal has been filed by the appellant
against the order dated 11.08.2023 passed by learned Additional
District & Sessions Judge-III-cum-Special Judge (SC/ST Act),
Bhagalpur whereby the prayer for bail of the appellant in
connection with Parbatta P.S. Case no. 93 of 2023 under
Sections 341, 323, 504, 302/34 of the Indian Penal Code,
Section 27 of the Arms Act and section 3(2)(v) of the SC/ST Act
was rejected.

3. As per allegation in the FIR, appellant and co-



accused Manish Kumar took away the son of the informant to eat litchi in garden at night. Informant's son Guddu Kumar and his cousin Sujit Kumar both went to eat litchi. It is further alleged there that accused Monu Kumar started to hurl abuse upon the informant's son and accused Manish Kumar opened fire which hit his chest. He was taken to hospital where doctor declared him brought dead.

4. It is submitted by learned counsel for the appellant that appellant has been falsely implicated in this. Specific allegation of opening fire is against accused Manish Kumar. Informant is not the eye witness rather he has made accused to the appellant on the basis of statement of Sujit Kumar, who was the eye-witness. No specific overt act of firing is against the petitioner. He has not taken the cast name of the informant in public view. No offence is made out under the provisions of the SC/ST Act against them. He has got no criminal antecedent and languishing in judicial custody since 31.5.2023.

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

6. Having heard learned counsel for the parties and taking into consideration that there is general and omnibus allegation against the appellant, the Court is inclined to allow



this appeal. Accordingly, the appeal is allowed and the impugned order dated 11.8.2023 hereby set aside.

7. The appellant is directed to be enlarged on bail in connection with Parbatta P.S. Case No. 93 of 2023 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 Additional District and Sessions Judge III-cum-Special Judge (SC/ST Act), Bhagalpur.

(Sunil Kumar Panwar, J)

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