

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5191 of 2023

Arising Out of PS. Case No.-88 Year-2022 Thana- CHARPOKHARI District- Bhojpur

Adityaraj Singh @ Mithun Son Of Jay Praksh Singh R/O Village- Thakuri,
Post- Thakuri, P.S.- Charpokhari, District- Bhojpur

... .. Appellant/S

Versus

1. The State Of Bihar
2. Saroj Kumar Son Of Baijnath Prasad R/O Village- Kashmariya, P.S.-
Charpokhari, District- Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manan Kr. Mishra, Sr. Adv.
	:	Mr.Nagendra Kumar Singh, Adv.
For the Respondent/s	:	Mr.Usha Kumari I, Spl. P.P

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 08-05-2024 Heard Mr. Manan Kr. Mishra learned senior counsel
for the appellant, learned Special Public Prosecutor for the State
and learned counsel for the informant.

2. The appellant seeks regular bail in connection with
B.P. No.5224 of 2023 arising out of Charpokhari P.S. Case No.
88 of 2022 lodged under Sections 147, 148, 149, 302, 307, 504
of the I.P.C. read with Section 27 of the Arms Act read with
section 3(i)(r)(S)3(2)(va) of SC and ST (Prevention of Atrocities
Act), 1989.

3. As per the prosecution case, the F.I.R. has been
lodged against 7 named and other unknown accused persons.
From the F.I.R., it transpires that there is direct allegation



against the present appellant to fire on the father of the informant and allegation against one Pintu Singh to fire upon the brother of the informant due to which they died and injury caused to other persons is also in the F.I.R.

4. Learned counsel for the appellant submits that it is true that in the F.I.R., there is direct allegation against the appellant and one Pintu Singh to cause fire arm injury due to which death has been caused to the informant's father and brother.

5. Counsel further submits that previously case diary has been called for and he raised 5 paragraphs of the case diary on the basis of which, he submits that the appellant is absolutely innocent and due to political rivalry between the appellant's wife and the informant's wife, the appellant has been named accused in this case. He submits that both were candidate in the election of *Mukhiya* in which the appellant's wife has won the election thereafter, they have decided to transplant conspiracy to make the appellant accused in this case.

6. Counsel further submits that from the statement of the independent witness as collected by the police in the F.I.R., paragraphs 11 and 12 of the case diary, it become clear that the informant was not present at the place of occurrence rather they



came later, and therefore, the content of F.I.R. itself may not be accepted. In support of his claim, he further submits that on the request of the appellant's wife, the higher officials of the police have also inquired into this matter and it has been found that at the time of occurrence, the appellant was present at 4 PM in the premises of police station whereas the distance between the police station and the place of occurrence is about 17 KM.

7. Counsel further submits that from paragraph 80 of the case diary, it become clear that initially the charge-sheet was directed to be filed against two persons only, other than the appellant, but subsequently further supplementary investigation has been made in which by virtue of paragraphs 115 and 116 of the case diary, charge-sheet has been filed against the present appellant.

8. Counsel further submits that the appellant is in custody since 16.06.2023. There is one criminal antecedent against the appellant and he is ready to fulfill all the conditions whatsoever shall be imposed upon him.

9. Learned counsel for the State opposes the prayer for bail and submits that it is true that bare reading of paragraph 11 and 12 of the case diary, the informant has come on the place of occurrence later, but the allegation of firing has been narrated



by the same witness.

10. Counsel further submits that the inquiry by the high police officer made in paragraph 80 of the case diary is correct. It is also correct that initially, police has recommended to file charge-sheet against two accused persons other than the appellant, but later on when evidence has come against the appellant, charge-sheet has been filed against him.

11. Learned counsel for the informant vehemently opposes the prayer for bail and submits that even for the sake of the argument, it has been accepted that the informant was not present on the spot, but the same independent witness on which the counsel for the appellant is relying, has supported the prosecution version that the death has been caused by the appellant and accused Pintu Singh. On the materials come in paragraph 80 of the case diary, counsel submits that there is time lag as a 4:04 PM, the appellant was subject to be present in the police station, but occurrence has taken place at 4 PM and within 4 minutes that distance may be covered.

12. Counsel further submits that in the supplementary investigation, the name of the appellant has figured in this case and he also submits that the informant has also been injured which automatically support the prosecution that the informant



was present there at the alleged occurrence.

13. After hearing the parties, it transpires to this Court particularly after going through the paragraphs 11, 12, 115, 116 and 80 of the case diary that there is reasonable doubt present in the case of the prosecution.

14. Upon specific query whether charge has been framed or not. Counsel for the appellant submits that as per his knowledge, charge has not been framed till date.

15. In the present facts and circumstances of this case and the submissions made above, this Court is not inclined to grant bail to the appellant. Therefore, the bail application of the appellant is hereby rejected at present.

16. However, liberty is hereby granted to the appellant that he may renew his prayer for bail after framing of charge.

(Dr. Anshuman, J.)

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