

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5201 of 2023**

Arising Out of PS. Case No.-733 Year-2023 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

=====

Kundan Ojha, Son Of Sumant Kumar Ojha @ Sumant Ojha, Resident Of
Village- Khabara, Ps- Muzaffarpur, Sadar, Distt- Muzaffarpur

... .. Appellant

Versus

1. The State Of Bihar
2. Anita Devi Wife Of Late Nagina Paswan Resident Of Village- Khabara, Ps-
Muzaffarpur, Sadar, Distt- Muzaffarpur

... .. Respondents

=====

Appearance :

For the Appellant/s	:	Mr.Gajendra Kumar Singh, Advocate
For the Respondent/s	:	Mr.Binay Krishna, SPP
For the informant	:	Mr. Raju Kumar, Advocate

=====

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

ORAL ORDER

4 02-04-2024 Heard learned counsel for the appellant, learned

Special Public Prosecutor for the State and learned counsel for
the informant.

2. The instant appeal has been filed by the appellant
against the order dated 30.10.2023 passed by learned Special
Judge SC/ST (POA) Act, Muzaffarpur whereby the prayer for
bail of the appellant in connection with Sadar P.S. case No. 733
of 2023 instituted under Sections 302/34 of the Indian Penal
Code, Section 27 of the Arms Act and Section 2(v) of SC/ST
(POA) Act, has been rejected.

3. Prosecution case, in short, is that while the son of



informant was at home, the petitioner called him and fired at him and thereafter threw his body. The son of informant was brought to hospital where in course of treatment, he died.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. The informant is not an eye witness to the alleged occurrence. In fact, no other person has claimed to be an eye witness of the occurrence. Learned counsel for the appellant, referring to statement made in paragraph 96 of the case diary, submits that there was some enmity between the parties. The name of the appellant has transpired merely on the basis of suspicion. The appellant has surrendered in Court below on 22.09.2023 and has one criminal antecedent.

5. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the petitioner. Learned S.P.P., referring to paragraph 90 of the case diary, submits that the scooty was recovered from the possession of the petitioner. The post-mortem report corroborates the fire arm injury as per allegation made in the F.I.R. Learned counsel for the informant submits that each and every witness has supported the case of the prosecution. Further, in the entire case diary, there is no mention of land dispute between the parties.



Learned counsel for the informant also submits that the appellant is a habitual offender.

6. Considering the aforesaid facts and circumstances of the case, the nature and gravity of offence and specific allegation against the appellant corroborated by post-mortem report, this Court is not inclined to allow this appeal. Accordingly, the appeal is dismissed.

7. The appellant is, however, given liberty to renew his prayer for bail if the trial is not concluded within one year.

(Rudra Prakash Mishra, J)

Pankaj/-

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

