

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5357 of 2023

Arising Out of PS. Case No.-136 Year-2016 Thana- BASANTPUR District- Siwan

Feku Singh @ Rupesh Singh Son Of Ganesh Singh R/O Village- Bithuna,
P.S.- Basantpur, District- Siwan

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Paritosh Parimal, Advocate
		Mr. Gaurav Kumar, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 26-04-2024

Heard learned counsel for the appellant and learned counsel for the State as well as learned counsel for the informant. However, despite information there is no representation on behalf of the informant.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail vide order dated 26.09.2023 passed by learned 1st Additional Sessions Judge cum Special Judge, Siwan in connection with Special Case No. 131 of 2018, arising out of Basantpur P.S. Case No. 136 of 2016, registered on 09.07.2016 for the alleged offences under Sections 302/34 of the Indian Penal Code, Section 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 27 of the Arms Act.



3. As per the prosecution case, while the husband of the informant has been sleeping in Mathia (Temple) it is alleged that the appellant and other co-accused persons shot dead the husband of the informant.

4. Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. The appellant was not present at the place of occurrence at the time of incident as the appellant went to attend the Tilak ceremony of his cousin at the distance of 25 kms from the place of occurrence and the mobile location tower, photograph and video certify this fact. The independent witnesses examined during investigation stated about the appellant not being present at the place of occurrence during relevant time. The appellant has been named in this case in the background of the fact that the appellant is one of the witnesses in a case lodged against the son and nephew of the informant. The allegation is that the appellant threatened the deceased to withdraw the case, but there is no complaint or FIR against the appellant for making such threat. Learned counsel further submits that the police submitted final form stating that the occurrence was true but the accused persons were falsely implicated. However, even after submission of final form the learned Special Court took



cognizance against the appellant without any legal material. The present case shows misuse of provisions of the SC/ST (Prevention of Atrocities) Act. The appellant is in custody since 11.09.2023. Learned counsel further submits that the appellant has been made accused in four cases out of which in three cases police has submitted final form and appellant is on bail in other case.

5. Learned Spl. P.P. appearing on behalf of the State vehemently opposes the submission made on behalf of the appellant. Learned Spl. P.P. submits that specific allegation has been levelled against the appellant and other co-accused persons.

6. Perused the records.

7. Having regard to the facts and circumstances and considering the submission made on behalf of the parties and considering the fact that there appears no substantive material to support the allegation and further considering the possibility of false implication along with the period of custody of the appellant, he is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge cum Special Judge, Siwan in connection with



Special Case No. 131 of 2018, arising out of Basantpur P.S.
Case No. 136 of 2016, subject to the conditions mentioned in
Section 437(3) of the Cr.P.C. and the following conditions:

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

8. Accordingly, the impugned order is set aside
and the appeal is allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.04.2024
Transmission Date	27.04.2024

