

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5338 of 2023

Arising Out of PS. Case No.-496 Year-2022 Thana- CHAPRA TOWN District- Saran

Shaukat Ali @ Munna @ Md.Munna, Aged about 53 years, Male, Son of Md. Jabbar, R/o vill - Chatradhari Bazar, Behind Sadar Hospital, P.S. - Bhagwan Bazar, Distt. - Saran at Chapra

... .. Appellant/s

Versus

1. The State of Bihar
2. Rajesh Chaudhary @ Rajesh Kumar, Aged about 27 years, Male, Son of Late Moti Lal Chaudhary, Resident of Village- Indra Nagar, Sarkari Bazar, P.S.- Town, District- Saran at Chapra

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Udai Shankar Singh, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

6 22-04-2024 Learned counsel for the appellant is permitted to make necessary correction in para 22 of the bail petition with regard to date of custody of the appellant.

2. Heard learned counsel for the appellant, learned counsel for the informant and learned Special Public Prosecutor for the State.

3. The instant appeal has been filed by the appellant against the order dated 09.10.2023 passed by learned Exclusive Special Judge, SC/ST Special Court, Saran at Chapra whereby the prayer for bail of the appellant in connection with Chapra Town P.S. Case no.496 of 2022 under Sections 302, 120(B)/34



of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v) of SC/ST (POA) Act was rejected.

4. As per prosecution case, under conspiracy the appellant and co-accused Sakil Alam along with others murdered informant's brother namely, Bablu Kumar Chauchary and fled away.

5. It is submitted by learned counsel for the appellant that appellant is innocent and has committed no offence. He has been falsely implicated in this case merely on suspicion. He has not taken the caste name of the informant in public view. Hence, no offence is made out under the provisions of the SC/ST Act against him. There is no eye witness of the alleged occurrence including the informant. During investigation, no consistent evidence has come against the appellant to show his involvement in the alleged occurrence. He has got no criminal antecedent. It is further submitted that appellant has himself surrendered on 11.09.2023 and since then he is languishing in judicial custody.

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

7. From perusal of the F.I.R., impugned order dated 09.10.2023, case diary along with postmortem report, it appears



that on the basis of written report of the informant Rajesh Chaudhary F.I.R. registered against two accused persons including the appellant only on the basis of suspicion. No one is the eye witness of the alleged occurrence. Except suspicion, there is no other consistent material or evidence against the appellant. After investigation, police has submitted chargesheet against the appellant.

8. Considering the facts and circumstances of the case, submission of learned counsel for the appellant and period of custody of the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 09.10.2023 is hereby set aside.

9. Let the appellant be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST Special Court, Saran at Chapra in connection with Chapra Town P.S. Case No. 496 of 2022.

(Ramesh Chand Malviya, J)

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