

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.5420 of 2023**

Arising Out of PS. Case No.-427 Year-2023 Thana- KATIHAR NAGAR District- Katihar

Md. Shahjada Alam @ Md. Shahzada S/O Md. Yunus @ Raiees @ Yunus  
R/O Mohalla- Rampara (KATIHAR), P.S- Katihar (TOWN), Distt.- Katihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Nikita Kumari W/O Late Prahlad Paswan R/O Mohalla- Baigna, Ward No.-  
24, P.S- Katihar(Town), Distt.- Katihar.

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Pawan Kumar Singh  
For the Respondent/s : Mr.Binay Krishna

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

3      03-04-2024                      Heard   learned   counsel   for   the   appellant,  
  
informant and learned Special P.P for the State.

The appellant has challenged the order dated  
  
07.10.2023 passed by learned Additional District &  
  
Sessions Judge-I-cum-Special Judge, SC/ST, Katihar in  
  
connection with Katihar Town P.S. Case No. 427 of  
  
2023 instituted for the offences punishable under  
  
Sections 147, 148, 149, 341, 323, 307, 504, 506 of  
  
the Indian Penal Code and Sections 3(i)(r)(s) of the  
  
SC/ST Act, subsequently, Section 302 I.P.C and  
  
Sections 3(ii)(v) of the SC/ST Act were also added,



whereby his prayer for being released on bail has been rejected.

It is a case of assaulting to the husband of the informant and abusing by calling caste name. The husband of the informant subsequently succumbed to the injuries.

It is submitted by learned counsel for the appellant that appellant is innocent and he has falsely been implicated in this case. The appellant was not apprehended from the spot neither any incriminating material was seized from his possession. For the alleged occurrence of 09.06.2023 at 11:35 P.M, the F.I.R was registered on 10.06.2023 at 2:35 A.M without explaining the delay. There is general and omnibus allegation against the appellant. Admittedly the informant is not the eye witness to the occurrence. As per F.I.R, the occurrence did not take place in public view. Hence, the provision under SC/ST Act would not be attracted against the appellant. A statement has been



made in para 3 of the petition that appellant has clean antecedent. Moreover, other similarly situated co-accused has been granted privilege of bail vide order dated 09.11.2023 passed in Cr. Appeal (SJ) No. 3448 of 2023.

*In contra*, learned counsel appearing on behalf of the informant and learned Special P.P appearing on behalf of the State have vehemently opposed the prayer for bail of the appellant.

Taking into account the aforesaid facts, this Court deems it appropriate to set aside the order dated 07.10.2023.

Accordingly, this appeal is allowed.

The appellant, above named, is directed to 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 learned Additional Sessions Judge-I-cum-Special Judge, SC/ST, Katihar in connection with Katihar Town P.S. Case No. 427 of 2023 subject to the



condition that (i) the appellant shall cooperate in the trial and shall present on each and every fixed date and on his absence before the trial on two consecutive dates without sufficient reason will give liberty to the learned Court below to cancel his bail bonds (ii) The Court below shall cancel the bail bonds of the appellant if the appellant is found tampering with the evidences or giving threats to the witnesses.

**(Sunil Kumar Panwar, J)**

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