

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.47 of 2024

Arising Out of PS. Case No.-338 Year-2023 Thana- KUMAR KHAND District- Madhepura

Jai Nandan Sah Son Of Late Tipu Sah Resident Of Village- Laxmipur Chandi
Asthan, Ward No. 07, P.S.- Kumarkhand, District- Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Prabhas Kumar Paswan Son Of Late Manik Chandra Paswan Resident Of
Village- Laxmipur Chandi Asthan, Ward No. 07, P.S.- Kumarkhand, District
- Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sharda Nand Mishra, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL ORDER

5 25-04-2024 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 21.11.2023 passed by learned Additional
District and Sessions Judge - 1st - cum- Special Judge,
Madhepura in B.P. No. 1906 of 2023 in connection with
Kumarkhand P.S. Case No. 338 of 2023 registered under
Sections 302 and 120(B) / 34 of IPC and Section 27 of the Arms
Act and Section 3(2)(v) of SC/ST Act.

3. As per the prosecution case, the allegation against
the appellant is that he alongwith other co-accused persons



committed murder of the father of the informant.

4. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. He further submits that the appellant has not taken the caste name of the informant in public view. Hence, no offence under the provisions of SC/ST Act is made out against him. The appellant is in custody since 03.10.2023.

5. On perusal of the FIR, case diary and impugned order dated 21.11.2023, it appears that on the basis of typed report of the informant Prabhash Kumar Paswan FIR was registered against 13 accused persons including the present appellant. It appears from the perusal of the FIR and case diary that no allegation against the appellant for firing upon the deceased. On perusal of post mortem report single shot found on the dead body of the deceased as an ante mortem injury caused by fire arm.

6. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail.

7. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the appellant, this Court is inclined to allow this appeal.

8. Accordingly, the appeal is allowed and order dated



21.11.2023 passed by learned Additional District and Sessions Judge-1st-cum-Special Judge, Madhepura 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 Court below/ concerned Court in connection with Kumarkhand P.S. Case No. 338 of 2023.

(Ramesh Chand Malviya, J)

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