

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.274 of 2025

Arising Out of PS. Case No.-224 Year-2023 Thana- ASHTHAWAN District- Nalanda

Nitish Kumar S/O Vijay Prasad R/O vill - karingapur, P.S - Manpur, Dist- Nalanda

... .. Appellant/s

Versus

1. The State of Bihar
2. Jyoti Devi W/O Mithu Paswan R/O vill - Majidpur, P.S - Manpur, Dist- Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rudal Singh, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, SPP
For the Informant	:	Mr. Suraj Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

5 10-04-2025 Heard learned counsel for the appellant, learned Special Public Prosecutor for the State and learned counsel for the informant. Perused the case diary.

2. The instant appeal has been filed by the appellant against the order dated 19.10.2024 passed by Additional Sessions Judge sixth cum Special Judge, SC/ST Act, Bihar Sharif, Nalanda whereby the prayer for bail of the appellant in connection with Asthawan P.S. Case No. 224 of 2023 under Sections 341, 323, 307/34 and added 302 of the IPC and Section 27 of the Arms Act, 3(1)(r)(s), 3(2)(v) of SC/ST Act was rejected.

3. The prosecution case, in short, is that co-accused



Rakesh Kumar @ Photu demanded Rs. 1,000/- from the husband of the informant and when he refused to give the same, the said accused shot him, as a result of which he sustained injuries and died.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case due to previous enmity. Appellant is not named in the F.I.R. The name of the appellant transpired in this case on the basis of statement given by the informant during investigation. Learned counsel further submitted that the specific accusation of firing upon the deceased is against the co-accused Rakesh Kumar @ Photu. The name of the appellant is being dragged merely due to enmity. No incriminating article has been recovered from the conscious possession of the appellant. Learned counsel for the appellant 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 has no intention to disgrace the image of the informant in public view. The appellant is in custody since 26.09.2024 and has two criminal antecedents.

5. Learned Special P.P. for the State and the informant



have vehemently opposed the prayer for grant of bail to the appellant, stating that the name of the appellant has transpired in this case merely on the basis of confessional statement of the co-accused Rakesh Kumar @ Photu. Learned counsel for the informant further submitted that charge has already been framed against the appellant on 14.12.2024.

6. Considering the aforesaid facts and circumstances of the case, there being no direct allegation of firing upon the deceased against the appellant and the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 19.10.2024 passed by Additional Sessions Judge sixth cum Special Judge, SC/ST Act, Bihar Sharif, Nalanda in connection with Asthawan P.S. Case No. 224 of 2023 is hereby set aside.

7. Let the appellant, abovenamed, 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 Asthawan P.S. Case No. 224 of 2023, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the appellant.

(II) The appellant shall appear on each and every date



fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the appellant.

(III) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

8. The appeal stands allowed.

(Rudra Prakash Mishra, J)

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