

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.395 of 2024**

Arising Out of PS. Case No.-1129 Year-2022 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Md. Raja @ Raja Son of Late Mohammad Asfak @ Mohammad Sapaque @
Md. Afaq R/o Mayaganj Mustafapur, P.S. - Barari (Kotwali), Distt. -
Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Anil Kumar Rajak Son of Late Chhagunri Rajak R/o Ganganagar Colony,
B.P. Trading Gas Godam, P.S. - Barari, Distt. - Bhagalpur

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Madhav Krishna, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, SPP

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

7 01-05-2025 Heard learned counsel for the appellant, learned

Special Public Prosecutor for the State and perused the case

diary.

2. The instant appeal has been filed by the appellant
against the order dated 07.12.2023 passed by Learned
Additional District and Sessions Judge-III-cum-Special Judge
(SC/ST Act), Bhagalpur, whereby the prayer for bail of the
appellant in connection with Kotwali (Barari) P.S. Case No.
1129 of 2022 under Sections 302, 34 of the Indian Penal Code,



read with Section 27 of the Arms Act and Section 3(2)(v) of SC/ST Act was rejected.

3. Prosecution case, in short, is that, the appellant along with other co-accused person committed murder of the grandson of the informant, namely, Rohit and one Sunny by firearms.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. Learned counsel for the appellant also submits that the appellant is not named in the FIR. Name of the appellant has transpired in course of investigation. The allegation levelled against the appellant is general and omnibus in nature. No specific allegation has been attributed against the appellant. It is next submitted that specific allegation of firing on the deceased is against co-accused person, namely, Babua who fired upon one Rohit and co-accused Sahwaz who fired upon one Sunny. 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 20.01.2023 and has got no criminal antecedent. Similar co-accused has been granted regular bail by a Co-ordinate Bench of this Court vide order dated 09.11.2023 passed in Cr. Appeal (S.J.) No. 2928 of 2023.

5. Learned Special P.P. for the State has opposed the prayer for grant of bail to the appellant.

6. Considering the aforesaid facts and circumstances of the case, general and omnibus allegation 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 07.12.2023 passed by Learned Additional District and Sessions Judge-III-cum-Special Judge (SC/ST Act), Bhagalpur, is hereby set aside.

7. 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 Kotwali (Barari) P.S. Case No. 1129 of 2022, 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.

(Rudra Prakash Mishra, J)

Rajorshi/-

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