

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2197 of 2025**

Arising Out of PS. Case No.-274 Year-2024 Thana- SITAMARHI District- Sitamarhi

Ashish Yadav @ Ashish Kumar @ Babaji S/O Nagendra Ray R/o Village-
Raghopur Bakhari, Ward No.3, P.S.- Dumara, Dist.- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar
2. Priyanshu Raj S/O late Devprakash Baita R/o Village- Raghopur Bakhari,
P.S.- Punaura, Dist.- Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Krishna Murari, Adv.

For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT**

Date : 25-11-2025

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

2. The present appeal is directed against the order dated 29.04.2025 passed by learned District and Additional Sessions Judge Ist cum Special Judge, Sitamarhi in connection with Trial No. 95/2024 arising out of Sitamarhi P.S. Case No. 274/2024 registered under Sections 302, 201/34 of the IPC, Section 3(2)(iv) (v) of SC/ST (POA) Act and Section 27 of the Arms Act whereby and whereunder the concerned court has rejected the discharge petition filed by the appellant.

3. The prosecution story, in brief, is that informant got information on 22.04.2024 at 3:30 PM that the appellant is said to have fired which hit the head of the informant's brother as



a result of which he sustained serious injury. The informant's brother succumbed to injury in the way while moving towards hospital for treatment. It is alleged that the said occurrence took place at the room of co-accused Aditya Kumar and Adrash Kumar situated at Goli Court Market. It is further alleged that co-accused Adarsh, Aditya, Subhas Kumar and Sachin Kumar have also assisted the appellant in the murder of informant's brother. Co-accused Adarsh Kumar and Aditya Kumar had arranged for arms and ammunition and after firing both of them fled away with the arms. Co-accused Subhas Kumar and Sachin Kumar along with Adrash Kumar and Aditya Kumar are said to have caused the disappearance of the evidence. It is further alleged the reason behind the occurrence is that the informant's brother was being pacified by the appellant not to harass Shuhana. On this, in a fit of rage these five persons have killed the informant's brother.

4. On the basis of fardbeyan of the informant, Trial No. 95/2024 arising out of Sitamarhi P.S. Case No. 274/2024 registered under Sections 302, 201/34 of the IPC, Section 3(2)(iv) (v) of SC/ST (POA) Act and Section 27 of the Arms Act.

5. Learned counsel for the appellant has submitted that the appellant is an innocent and has committed no offence as alleged in the FIR. He further submits that there is no eye witness of the alleged occurrence and on account of dirty village politics



the appellant has falsely been implicated in the present case. He further submits that there is no incriminating articles has been recovered from the possession of the appellant and there is no motive of the appellant as alleged in the FIR. The appellant bears no criminal antecedent. In the light of the facts and circumstances of the case, concerned court has not taken into account the material available on record and dismissed the discharge petition which is not on the basis of material available on record.

6. Learned Special Public Prosecutor for the State submits that the appellant is the main assailant. He further submits that the appellant and the informant's brother are co-villagers and both belong to a particular community and the appellant is said to have killed the informant's brother, as is evident from the FIR itself. The informant has narrated the manner of occurrence in the story of prosecution by stating that how the other co-accused has assisted the appellant in committing the crime and how the other co-accused has made arrangement of arms and ammunition for committing such crime. He further submits that the very motive behind the occurrence is quite evident from the FIR. He further submits that the concerned court has recorded that the charge-sheet has been submitted and cognizance has been taken against the appellant under Sections 302, 201/34 of the IPC, Section 3(2)(iv) (v) of SC/ST (POA) Act



and Section 27 of the Arms Act and the concerned court has explained the reason for dismissing the discharge petition. There are sufficient material available against the appellant as mentioned in paras 3, 5, 6, 14, 15, 17 of the case diary. In the light of the aforesaid facts and circumstances, reason recorded by learned trial court in not in any way derogation of statutory provisions. Hence, no interference is needed.

7. After hearing the arguments of both parties and perusing the material available on record, it is clear that appellant is FIR named accused and there is specific allegation of firing against the appellant who said to have fired which hit the head of the informant's brother and he died. The postmortem report as well as restatement of the witnesses namely Shankar Jathi, Rahul Kumar and Astik Araya and confessional statement of the accused all points to be role of the appellant and others and the contention of the learned counsel for the State is quite tenable and sustainable in the light of the aforesaid facts and circumstances of the case. The Investigating Officer after completion of investigation on all points submitted charge sheet against the appellant and others and accordingly cognizance has been taken under Sections 302, 201/34 of the IPC, Section 3(2)(iv) (v) of SC/ST (POA) Act and Section 27 of the Arms Act. Prudently and pragmatically, the court is not required to appreciate evidence to



conclude whether the materials produced are sufficient or not for convicting the accused. As per the settled position of law, on the consideration of charge, the court has to see whether there is sufficient ground to proceed against the accused or not. At this stage, the court is not expected to go deep into the probative value of the material on record. In this way, the trial court has rightly rejected the discharge petition.

8. In the light of the discussions made above, I find no reason to differ from the findings recorded by the concerned court.

9. Accordingly, the present appeal stands dismissed at the admission stage itself.

(Alok Kumar Pandey, J)

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AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	02.12.2025
Transmission Date	N/A

