

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2731 of 2024

Arising Out of PS. Case No.-207 Year-2023 Thana- GORIAKOTHI District- Siwan

Raju Dubey S/O Sri Ram Dubey R/O Village- Sarari, P.S- Goreakothi, Distt.- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. Baban Ram S/O Late Raj Kumar Ram R/O Village- Sarari, Paschim Tola, P.S- Goreakothi, Distt.- Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Raghav Prasad, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, SPP
		Mr. Vishal Vikram Rana, Adv.
		Ms. Misha Bharti, Adv.
		Ms. Zeeshan Khan, Adv.
		Mr. Aditya Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

7 08-05-2025 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 01.04.2024 passed by learned 1st Additional Sessions Judge cum Special Judge, SC/ST, Siwan whereby the prayer for bail of the appellant in connection with Goreakothi P.S. Case No. 207 of 2023 under Sections 302/34/120(B) of the I.P.C., Section 27 of the Arms Act and Sections 3(2)(v) of the SC/ST Act was rejected.



3. As per prosecution case, the appellant and others are said to have concertedly fired upon the informant's son due to which he sustained fire-arm injury and died.

4. Learned counsel for the appellant submits that the appellant is innocent and has has falsely been implicated in the present case only on the basis of suspicion. Charge-sheet has been submitted in this case. There is no direct or specific allegation of any overt act against the appellant rather the same is general and omnibus in nature. He further submits that as per allegation, the allegation of firing is against three accused persons but, from the postmortem report, it appears that the deceased has sustained one gun shot injury which creates doubt in the veracity of the prosecution case. There is no eye-witness to the alleged occurrence. Even the Informant is not the eye-witness to the alleged occurrence and, merely on the basis of suspicion, the appellant has been falsely implicated in the present case. There is not an iota of evidence in the entire record of the case which shows the complicity of the appellant in the present case and has been implicated in this case only on the basis of his criminal antecedent. The appellant is in custody since 29.02.2024 and has altogether sixteen criminal antecedents as has been stated in Para-3 of the present appeal.



Similar co-accused has been granted bail by a Coordinate Bench of this Court vide order dated 31.01.2024 passed in Cr. Appeal (S.J.) No. Criminal Appeal (SJ) No.4405 of 2023.

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 there is specific allegation against the accused persons including the appellant of firing upon the Informant's son due to which he died. Charge-sheet has been submitted in this case. The postmortem report supports the prosecution case. The Informant in his re-statement contained in Para-4 and several witnesses in Para 8, 9, 10 and 11 have supported the prosecution case. The offence alleged is serious in nature. The appellant has altogether sixteen criminal antecedents and, hence, he does not deserve bail.

6. Pursuant to the order of this Court, the learned court below has sent its report dated 27.01.2025 regarding present stage of the trial. From perusal of the same, it appears that the case is still pending for framing of charges and the next date of the case is fixed for framing of charges on 06.02.2025 but, learned counsel for the Informant submits six witnesses have been examined till date.

7. Having heard learned counsel for the parties and



taking to into account the nature and gravity of the offence alleged as also there being direct allegation against the appellant of committing murder of the Informant’s son by firing, this Court is not inclined to grant bail to the appellant.

8. Accordingly, the appeal stands dismissed with a direction to the learned court below to expedite the trial and conclude the same expeditiously.

(Rudra Prakash Mishra, J)

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