

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4968 of 2024

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

Aditya Kumar S/O Sujit Kumar Srivastava Resident of Mohalla- Kot Bazar
Maharani Asthan, Ward (Chakmaha) No. 13, Sitamarhi, Distt.- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar

2. Priyanshu Raj, son of late Dev Prakash Baitha, resident of Village
Raghopur Bakhri, P.S. Punaure, Dist. Sitamarhi.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Shankar Kumar, Adv.

For the Respondent/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

3 07-02-2025 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State. In spite of valid service
of notice upon the respondent no.2, no one has appeared on his
behalf. Perused the case diary.

2. The instant appeal has been filed by the appellant
against the order dated 30.09.2024 passed by learned I/c 1st
Additional Sessions Judge cum Special Judge SC/ST
(Prevention of Atrocities) Act whereby the prayer for bail of the
appellant in connection with Sitamarhi P.S. Case No. 274 of
2024 under Sections 302, 201, 34 of the I.P.C. and Section 27 of
the Arms Act and Sections 3(2)(iv), 3(2)(v) of the SC/ST
(Prevention of Atrocities) Act, was rejected.

3. As per prosecution case, the accusation against the
accused persons including the appellant is of committing murder



of the deceased.

4. Learned counsel for the appellant submits that the appellant is innocent and has committed no offence as alleged in the F.I.R. and has falsely been implicated in the present case due to enmity and village politics. He further submits that neither the appellant was present at the time of occurrence nor has got any concern with the alleged occurrence. The Informant is not the eye-witness to the alleged occurrence. Charge-sheet has been submitted in this case. There is no specific or direct allegation of any overt act against the appellant rather the specific allegation of firing is against the co-accused Ashish Yadav @ Babaji and, except suspicion, there is nothing against the appellant. He further submits that nothing incriminating has been recovered from the physical/conscious possession of the appellant. Nothing incriminating article has been recovered from the place of occurrence. The appellant is in custody since 03.09.2024 and has one criminal antecedent. Similar co-accused has been granted bail by a Coordinate Bench of this Court vide order dated 21.11.2024 passed in Cr. Appeal (S.J.) No. 3605 of 2024.

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



the offence alleged against the appellant is serious in nature. The Informant in his re-statement and several witnesses have supported the prosecution case. The co-accused Ashish Kumar Yadav @ Babaji has confessed his guilt and has also stated about the appellant of being involved in the alleged occurrence.

6. Having heard learned counsel for the parties and considering the aforesaid facts and circumstances of the case, the period of custody undergone by the appellant and there being no specific allegation against the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the order 30.09.2024 passed by learned I/c 1st Additional Sessions Judge cum Special Judge SC/ST (Prevention of Atrocities) Act 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 Sitamarhi P.S. Case No. 274 of 2024.

(Rudra Prakash Mishra, J)

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