

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5225 of 2024

Arising Out of PS. Case No.-353 Year-2019 Thana- SIMRI BAKHTIYARPUR District-
Saharsa

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Niraj yadav Son of Satto Yadav @ Satya Narayan Yadav Village - Karuwa,
ps- Simri Bakhtiyarpur, (Balwahat Op), Dist- Saharsa

... .. Appellant/s

Versus

1. The State of Bihar
2. Kunti Devi Wife of Late Raj Kumar Sharma village- Mohaniya, Ward no. 3,
Ps- Bakhtiyarpur, (Balwahat Op), Dist- Saharsa

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Pramod Mishra

For the Respondent/s : Mr.Binay Krishna

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

7 21-08-2025 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. This is an appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the SC/ST Act) against the refusal of prayer of bail *vide* order dated 13.09.2022 passed by the learned Additional Sessions Judge-3rd Cum- Special Judge, SC/ST Act, Saharsa in connection with Special Case No. 257/2019, arising out of Bakhtiyarpur P.S. Case No. 353/2019 dated 07.09.2019 registered for the offence/s punishable u/s 302, 386 and 120B read with Section 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections



3(2)(v) & 3(2)(va) of the SC/ST Act.

3. As per the prosecution case, when the informant was returning home, one Amar Kumar Singh informed the informant that three miscreants came riding a motorcycle and fired on her husband. On knowing this, the informant along with others went to the place of occurrence and saw her husband injured who has sustained injury on his back and shoulder. Thereafter, they took her husband to hospital for treatment. On the way her husband disclosed that Rahul Sharma, Niraj Yadav along with one unknown miscreant riding a motorcycle surrounded him and fired upon him. Prior to this incident, the co-accused Kaushal Yadav had threatened from jail to give Rs. 1 lacs to one Kartik Sharma, otherwise when he was shot ten times last time he survived, but this time he will not survive. The informant alleged that due to previous enmity Kaushal Yadav in conspiracy with Rahul Sharma, Neeraj Yadav and along with one unknown miscreant this occurrence took place. Further, the informant's husband died on the hospital.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no particular caste name has been called by the appellant hence no case is made out under SC/ST Act. As



per Letter No. 80/2025, out of six charge-sheeted witnesses five prosecution witnesses have been examined. The appellant has eleven criminal antecedents but not a single case is related to offence u/s 302 of the I.P.C. as stated at para 3 of the bail petition. The appellant is in custody since 03.07.2020.

5. Learned Spl. P.P. for the State has vehemently opposed the prayer of bail. Earlier the bail application of the appellant has been rejected by the co-ordinate bench of this court vide order dated 19.07.2021 and 12.07.2023 passed in Cr. Appeal (S.J.) No. 2302/2021 and 4243/2022 respectively. In para. 8,9 and 26 of the case diary, the informant has stated that at least two persons have taken the name of the appellant in respect of the firing and call details record has also been examined. The same revealed the appellant's location as per the mobile tower to be at the place of occurrence at the time the occurrence has taken place. The same also reveals that the appellant was in contact with one Kaushal Yadav.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 13.09.2022 passed by the learned Additional Sessions Judge-3rd Cum- Special Judge, SC/ST Act, Saharsa in connection with Special Case No. 257/2019, arising out of Bakhtiyarpur P.S. Case No. 353/2019 is set aside against the appellant. The



criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge- 3rd Cum- Special Judge, SC/ST Act, Saharsa in connection with Special Case No. 257/2019, arising out of Bakhtiyarpur P.S. Case No. 353/2019, with further conditions:-

(i). The appellant is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bonds of the appellant are liable to be cancelled.

(ii). If the appellant is found involved in similar nature of offence in the future, the prosecution will be at liberty to move for cancellation of his bail bonds.

(iii). The appellant is directed to co-operate in the trial in the lower court concerned.

(Chandra Prakash Singh, J)

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