

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5283 of 2024

Arising Out of PS. Case No.-392 Year-2022 Thana- ALOULI District- Khagaria

Praful Kumar S/O Jayjay Yadav R/O Village- Hathwan, P.S- Alauli, District- Khagaria.

... .. Appellant

Versus

1. The State of Bihar Bihar
2. Shyam Sundar Sah S/O Late Bindeshwari Sah @ Late Bindeshwari Prasad Gupta R/O Village- Hathwan, P.S- Alauli, District- Khagaria.

... .. Respondents

Appearance :

For the Appellant : Mr. Vivekanand Singh, Adv
For the Respondent : Mr. Binay Krishna, Sp.P.P

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 05-03-2025 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 30.09.2024 passed by the learned Additional Sessions Judge-1st cum-Special Judge, SC/ST Act, Khagaria in Criminal B.A. No. 223/2024 arising out of Alauli P.S. Case No. 392/2022 dated 22.08.2022 registered for the offence/s punishable u/s 353, 332, 307, 120B read with Section 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v) of the SC/ST



Act and later on 302 of the IPC was also added

3. As per the prosecution case, the appellant along with the co-accused person had opened fired on the informant and the constable, namely, Jainarayan Paswan causing gun shot injury and during the course of treatment the constable Jainarayan Paswan died.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case merely on the basis of suspicion. 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. Neither the appellant has been apprehended at the place of occurrence nor he has been put on T.I.P. The co-accused person, Rahul Kumar has been granted regular bail by the Hon'ble Supreme Court of India in Special Leave to Appeal (Crl.) No. 11201/2024 dated 24.09.2024. The appellant has three criminal antecedents and he is on bail in all the aforesaid cases as stated at para 3 of the bail petition. The appellant is in custody since 24.08.2022.

5. Learned Spl. P.P. for the State has vehemently opposed the prayer of bail by submitting that the specific



allegation of firing is against the appellant and the co-accused person. Earlier the bail application of the appellant was rejected by the Co-ordinate Bench of this Court vide order dated 14.12.2023 passed in Cr. Appeal (S.J.) No. 1262 of 2023.

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 30.09.2024 passed by the learned Additional Sessions Judge-1st cum-Special Judge, SC/ST Act, Khagaria in Criminal B.A. No. 223/2024 arising out of Alauli P.S. Case No. 392/2022 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-1st cum-Special Judge, SC/ST Act, Khagaria in Criminal B.A. No. 223/2024 arising out of Alauli P.S. Case No. 392/2022, with the 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 petitioner are liable to be cancelled.

(ii). The appellant is directed to extent all co-



operation during trial.

(Chandra Prakash Singh, J)

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