

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5368 of 2024

Arising Out of PS. Case No.-44 Year-2023 Thana- KUDHNI District- Kaimur (Bhabua)

Arvind Rai @ Arbind Rai @ Bagrudan Rai Son of Kedar Rai Resident Of
Village- Dum Duma, PS- Kudhni, Distt.- Kaimur (Bhabhua)

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Guddu Musahar Son of Sudama Musahar Resident Of Village- Kudhni, PS-
Kudhni, Distt.- Kaimur (Bhabhua)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Bijay Kumar Pathak, Adv
For the Respondent/s	:	Mr.Sadanand Paswan, Sp.PP
For the O.P. No. 2	:	Mr. Ashutosh Kumar, Adv

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

ORAL ORDER

3 10-01-2025 Heard learned counsel for the appellant and learned
counsel for the informant as well as learned Special Public
Prosecutor for the State.

2. This is an appeal under Section 14(A)(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
18.10.2024 passed by the learned District and Additional
Sessions Judge-I-cum Special Judge, Kaimur at Bhabhua in
connection with SC/ST Reg. No. 27/2024 (Kudhni) P.S. Case
No. 44/2023 dated 19.11.2023 registered for the offences



punishable u/ss 147, 148, 149 and 302 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v) of the SC/ST Act.

3. As per the prosecution case, the appellant and the co-accused persons holding firearms came at the filed of the informant and started firing towards them. Seeing them, the informant and other persons who were working in their fields started running towards paddy fields and the accused persons started running after them. In the meantime, the petitioner Arvind Rai@ Bagrudan Rai fired at Santosh Mushar and as a result of this Santosh Mushar died on the spot. Thereafter, all the accused persons fled away from the spot.

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 para. 114 of the case diary, the wife of the deceased has not stated that name of the petitioner in the crime alleged rather she has stated that the co-accused Satyendra Rai @ Dalgira Rai has fired from his rifle on the chest of the deceased. As per para. 17,



18, 19, 86 and 87 of the Supplementary Case Diary, it is stated that the co-accused Satyendra Rai @ Dalgira Rai has fired from his rifle on the deceased due to which he died. The appellant has seven criminal antecedents out of which he is on bail in three cases and he is acquitted in four other cases as stated at para 3 of the bail petition. The appellant is in custody since 20.11.2023.

5. Learned counsel learned Spl. P.P. for the State as well as learned counsel for the informant have vehemently opposed the prayer of bail.

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 18.10.2024 passed by the learned District and Additional Sessions Judge-I-cum Special Judge, Kaimur at Bhabhua in connection with SC/ST Reg. No. 27/2024 (Kudhni) P.S. Case No. 44/2023 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 District and Additional Sessions Judge-I-cum Special Judge, Kaimur at Bhabhua in connection with SC/ST Reg. No. 27/2024 (Kudhni) P.S. Case



No. 44/2023, with further condition:-

(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.

(Chandra Prakash Singh, J)

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