

(First Regular Bail Appeal)

(Appellant in custody)

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Criminal Appellate Jurisdiction)

Cr. Appeal No. of 2024 (S.J.)

In the matter of a petition of
Appeal under Section 14 A (2)
of the Scheduled Castes and
Scheduled Tribes (Prevention
of Atrocities), Act 1989.

AND

In the matter of;

Rishu Raj @ Rishu Kumar @Rishuraj Kumar, aged about 21
years, Male, S/O-Ravindra Tiwary @Ravindra Tiwari, Resident of
Village- Gopinathpur, P.O- Sirsia Jagdishpur, P.S.-Baruraj,
District-Muzaffarpur

..... Appellant

Versus

1. The State of Bihar
2. Chanda Devi, Female, W/O- Mukesh Das, R/O- Village-
Kashi Chapra Narwara, P.S.-Baruraj, District- Muzaffarpur
..... Opposite Parties

To,

The Hon'ble Mr. Justice K. Vinod Chandran, the Chief
Justice of the High Court of Judicature at Patna and his
Lordship's companion justices of the said Hon'ble Court.

The humble petition of appeal
on behalf of the appellant
above named:

Most Respectfully Sheweth:

1. That this appeal is being filed for setting aside the order
dated 19.11.2024, passed by Learned Special Judge, SC/ST
(Prevention of Atrocities) Act, Muzaffarpur, in connection
with Baruraj P.S. Case No. 119/2024 dated 08.07.2024,
whereby and whereunder the application filed on behalf of
the appellant for grant of regular bail in connection with
Baruraj P.S. Case No. 119/2024, instituted under sections

109,308(4),352,351(3),3(5) of the Bharatiya Nyaya Sanhita (BNS), Section 27 of the Arms Act, and Sections 3(1)(r),3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2014 (as amended), has been rejected. The appellant respectfully submits that the said order is erroneous both in law and on facts and prays for it to be set aside.

2. That the appellant has not moved this Hon'ble court earlier either for grant of anticipatory or regular bail in connection with the present case. Furthermore, the petitioner has not filed any bail application before the Hon'ble Supreme Court, nor is there any bail application currently pending before any lower court.
3. That apart from the present case, the appellant has been implicated as an accused in one other case, registered as Paru P.S. Case No. 46/2023, registered under Sections 30(a),32(II),32(III),36,41(I), (II) of the Bihar Prohibition and Excise Act and Sections 467,468,471,120(B) of the IPC, in which the appellant has already been granted bail.

4. That the appellant has been languishing in jail since 11.11.2024.
5. That the prosecution case, as per the written complaint filed by the informant, Chanda Devi, w/o- Mukesh Das, permanent resident of Village-Kashi Chapra Narwara, P.S.- Baruraj, District-Muzaffarpur. It has been alleged *inter alia* as follows:

That On 07.07.2024, at about 9:30 PM, while she was sitting at the door of her house with her husband, suddenly (1) Bipul Singh, son of Ramnaresh Singh, resident of Village Sirsia, Police Station Kayiya, District Muzaffarpur, (2) Rishu Kumar, son of Ravindra Tiwari, resident of Village Gopinathpur, Police Station Baruraj, District Muzaffarpur, along with five unknown individuals, came to her door on three motorcycles. The accused persons allegedly started abusing her and said, "You *****, you have become too arrogant." The informant further alleges that these individuals had been demanding an extortion amount of Rs. 5 lakhs for a long time. When she and her husband protested against this, Bipul Singh and Rishu Kumar took out pistols

from their waists and started firing at her husband. Out of fear, the informant and her husband ran behind the house, shouting, and hid in the fields. Hearing the commotion, the villagers gathered at the spot, at which point the accused persons started firing and fled toward Sirsia. The informant further states that Bipul Singh is a notorious criminal and has been to jail multiple times in connection with several serious cases. She also mentions that the accused persons frequently threaten to kill her, which has left her entire family in terror.

6. That based on the written complaint submitted by the informant, the Baruraj Police registered a formal First Information Report (FIR) as Baruraj P.S. Case No. 119 of 2024, dated 08.07.2024. The case was registered for alleged offences under Sections 109, 308(4), 352, 351(3), 3(5) of the Bharatiya Nyaya Sanhita (BNS), Section 27 of Arms Act, and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 2014 (as amended).

A True/Certified copy of the
Baruraj P.S. Case
No.119/2024 dated
08.07.2024 is being annexed
herewith and marked as
Annexure- P/1 to this petition
of appeal.

7. That the appellant is innocent and the facts stated hereinafter would show that he has been falsely implicated in the present case.
8. That the appellant has been falsely implicated in the present case as he had raised his voice against the illegal activities and cyber frauds allegedly committed by the complainant's husband and son. The informant, being a resident of the same locality, has filed this case out of personal animosity and ulterior motives stemming from the reasons mentioned above.
9. That while the case diary mentions recovery of live cartridges and fired shells, there is no clear link to the accused, as no forensic report has been presented to

establish that the recovered ammunition was fired from any weapon associated with the accused.

10. The alleged incident occurred on 07.07.2024 at 9:30 PM; however, the FIR was registered only on 08.07.2024, indicating an unexplained delay. This delay casts serious doubt on the authenticity of the allegations, raising the possibility of concoction or fabrication of facts. Such an inordinate delay in lodging the FIR suggests an afterthought or potential manipulation.

11. That the appellant is a man of means and is ready to abide by any conditions that may be imposed by this Hon'ble Court to ensure justice.

12. That the Appellant moved the Court of Learned Special Judge SC/ST(POA) Act, Muzaffarpur for grant of regular bail in connection with Baruraj P.S. Case No. 119/2024 dated 08.07.2024, which was heard and rejected vide impugned order dated 19.11.2024.

Hence, being aggrieved by and dissatisfied with the order dated 19.11.2024 passed by

Learned Special Judge
SC/ST(POA) Act,
Muzaffarpur for grant of
regular bail in connection with
Baruraj P.S. Case No.
119/2024 dated 08.07.2024,
which was heard and rejected
vide impugned order dated
19.11.2024, the appellant
abovenamed begs to prefer
this petition of appeal, on
amongst others, the following

GROUND:

- i. For that the impugned order is otherwise bad in law as well as facts and fit to be set aside.
- ii. For that the learned court below has not applied his mind judiciously in appreciating the materials available on record and has disposed of the regular bail application of the appellant without due consideration of the facts and materials on record.

- iii. For that the prosecution's case is based on allegations that lack substantive evidence linking the appellant to the commission of the alleged offenses, which was not duly considered by the learned court below.
- iv. For that the unexplained delay in filing the FIR provides sufficient grounds to suspect fabrication of facts and possible ulterior motives, which the learned court below overlooked while rejecting the bail application.
- v. For that the learned court below overlooked the fact that the appellant has no direct role in the alleged offense, and the evidence presented is primarily circumstantial, making the order of rejection legally unsustainable.
- vi. For that the learned court below erred in dismissing the bail application solely based on the nature of allegations, without examining whether the materials on record justify the necessity of continued custody.
- vii. For that, the order passed by the learned court below without considering the facts and circumstances of the case.

It is, therefore, prayed that your Lordships may graciously be pleased to set aside the impugned order dated 19.11.2024 passed by the Court of Learned Special Judge SC/ST(POA) Act, Muzaffarpur for grant of regular bail in connection with Baruraj P.S. Case No. 119/2024 dated 08.07.2024, whereby the prayer for regular bail filed by the appellant was rejected and further your lordship may graciously be pleased to direct the release of the appellant on bail in connection with Baruraj P.S. Case No. 119/2024, dated 08.07.2024, to the satisfaction of the Learned Special Judge,

SC/ST (Prevention of Atrocities) Act, Muzaffarpur, where the matter is currently pending.

And/or

Pass such other order or orders as your Lordships may deem fit and proper in the facts and circumstances of the case.

And for this the appellant shall ever pray.

(First Regular Bail Appeal/Application)

(Appellant in Custody)

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Criminal Appellate Jurisdiction)

Cr. Appeal. No. /2024

Rishu Raj @ Rishu Kumar @Rishuraj Kumar Appellant

Versus

The State of Bihar & Anr.Opposite Parties

Subject: Regular Bail

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AFFIDAVIT

I, Bipul Kumar, (Male), aged about 30 years, S/o Mahesh Tiwari, R/o- Village- Gopinathpur, P.O.-Sirsia Jagdishpur, P.S. Baruraj, District Muzaffarpur, do hereby solemnly affirm and state as follows:

1. That I am the cousin brother of the appellant and, as such, am well acquainted with the facts and circumstances of this case.
2. That the contents of this application have been read over and explained to me in Hindi, which I have fully understood.
3. That the statements made in this application are true to the best of my knowledge and information derived from the records of the case, which I believe to be true.
4. That the annexures are true copies/photocopies of their respective originals.