

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1373 of 2020

Arising Out of PS. Case No.-97 Year-2020 Thana- WARISLIGANJ District- Nawada

1. SAHZAD KHAN S/o Tuni Khan @ Shaukat Khan Resident of Village-Murlachak, P.S.-Warsaliganj, District-Patna.
2. Mansoor Khan S/o Usman Quraishi Resident of Village-Murlachak, P.S.-Warsaliganj, District-Patna.
3. Azhar Khan S/o Naseem Khan Resident of Village-Murlachak, P.S.-Warsaliganj, District-Patna.
4. Md. Arif Khan S/o Khalil Khan Resident of Village-Murlachak, P.S.-Warsaliganj, District-Patna.
5. Golu Khan S/o Md. Zafar Khan Resident of Village-Murlachak, P.S.-Warsaliganj, District-Patna.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Amresh Kumar Sinha
For the Respondent/s	:	Mr.A.G
For the Informant	:	Mr. Vibhuti Ranjan Sonvadra, Adv.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 14-09-2020 The court proceeding has been conducted through virtual mode.

Since the court proceeding is not functional in physical mode, due to present Pandemic, Covid -19, the present appeal has been listed with defects.

Learned counsel for the appellant undertakes to remove the defect(s) within a period of four weeks of resumption of court proceeding in physical mode.

If the defect(s) is not removed within the undertaken



period, the office will place the matter again.

Heard learned counsel for the appellants and the State.

The present appeal has been preferred against the order dated 16.06.2020, passed by learned Special Judge, (SC/ST Act)-cum-Additional District and Sessions Judge-I, Nawada in B.P. Nos. 1098 and 1148 of 2020, connection with Special Case No. 97 of 2020, whereby the prayer for bail of the appellants has been rejected.

The appellants are languishing in custody since 19.04.2020, in a case registered for the offences punishable under Sections 147, 148, 149, 341, 323, 307, 504 and 506 of the IPC, Section 27 of the Arms Act and Sections 3(i)(r)(s) and 3(2)(v) of SC/ST (Prevention of Atrocities) Act.

The prosecution case, as per the fardbeyan of Rajiv Kumar Raja, recorded by S.I., Ashok Kumar Mandal on 17.04.2020 at 11.30 A.M. at Primary Health Centre, Nawada is to the effect that on 16.04.2020 at about 11 A.M., the informant was coming to his house from Warsaliganj, but on the way, his bicycle got touched one Md. Mahir and for that there was some hot exchange with him. On 17.04.2020 at about 7 A.M., the issue was reconciled, but on the same day, at about 8.30, the



wife of Akbar Khan, the co-villager of the informant died, but the rumor was spread that the wife of Akbar Khan died of Covid-19, subsequently, 28 FIR named accused persons including the appellants and 20-25 unknown persons came and started abusing the informant and they resorted to fire. It is alleged that firing made by co-accused Md. Irfan caused injury to three persons including the uncle of the informant, Madan Ravidas, who died on the spot.

Learned counsel for the appellant submits that the accusation against the appellants is omnibus and general. The specific accusation of firing is against co-accused Md. Irfan. Moreover, the investigation has already been concluded. A statement has been made in paragraph no.3 of the petition that the appellants are not having any criminal antecedent.

Learned counsels for the informant and the State submit that the deceased had received three firearm injury when all the accused persons resorted to fire.

Considering the fact that specific accusation of firing is against co-accused Md. Irfan, the accusation against the appellant is omnibus and general, the investigation has already been concluded and period under custody, coupled with statement made in paragraph no.3 of the petition to the effect



that the appellant is not having any criminal antecedent, the order dated 16.06.2020, passed by learned Special Judge, (SC/ST Act)-cum-Additional District and Sessions Judge-I, Nawada in B.P. Nos. 1098 and 1148 of 2020, connection with Special Case No. 8 of 2020 is hereby quashed and the appellant is directed to be released on bail for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Special Judge, (SC/ST Act)-cum-Additional District and Sessions Judge-I, Nawada, in connection with Special Case No. 8 of 2020.

However, in view of the present pandemic COVID- 19, it will be open for the learned Court below to accept the bail bond on furnishing an undertaking by the surety, on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety on photo copy of his Aadhar Card to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the appellant will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two



sureties including one surety given at the time of provisional bail of the like amount each to the satisfaction of learned Special Judge, (SC/ST Act)-cum-Additional District and Sessions Judge-I, Nawada, in connection with Special Case No. 8 of 2020.

The learned Court below will be at liberty to extend the period of provisional bail further if the court proceeding in physical mode will not resume in next three months.

The learned court below will be at liberty to cancel the bail bonds of the appellant if he defaults for three consecutive occasions during trial.

Accordingly, the present appeal is allowed and disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

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