

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.863 of 2021**

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

MD. NAIM KHAN @ NAIM MOHAMMAD KHAN @ NAIM KHAN S/o
LATE NOOR MOHAMMAD KHAN Resident of Village- Murlachak, Ward
No.05,. P.S.- Warisaliganj, Distt- Nawada

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vaishnavi Singh
For the Respondent/s : Mr. A.G.

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

3 16-08-2021 Heard learned counsel for the appellant and the State
through virtual mode.

The matter relates to grant of anticipatory bail to the
appellant in connection with Warisaliganj P.S. Case No. 97 of
2020 registered for the offences under Sections 147, 148, 149,
341, 323, 307, 302, 504, 506 of the Indian Penal Code, 27 of the
Arms Act and Sections 3(1)(r)(s), 3(2)(v) of the SC/ST
(Prevention of Atrocities) Act.

Initially, a petty feud took place due to touching the
bicycle and it is also alleged that the wife of one Akbar Khan
died due to Corona and due to that in anguish, the accused
persons having armed came and started abusing taking his caste
name and also made firing as a result of which, several persons



sustained injuries.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellant. The appellant has falsely been implicated in the present case. The main allegation of firing is against co-accused namely Md. Irfan. A supplementary affidavit annexing the judgment dated 05-04-2021 has been filed on behalf of the appellant. It has been submitted that co-accuseds (Md. Irfan along with others) were put on trial and subsequently, all eleven co-accuseds have been acquitted by the trial court taking into account that the informant retracted from his earlier statement made in the FIR. The trial court judgment is Annexure-5 to the supplementary affidavit. Altogether 28 named persons along with 20-25 unknown persons have been made accused in the FIR. There is no specific allegation of overt act against the appellant. The alleged occurrence has not taken place within the public view. Hence, no offence under the provisions of SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant is named in the Complaint Case/F.I.R.

In view of the aforesaid facts and circumstances, the order



dated 28-11-2020 passed by learned Additional District & Sessions Judge-Ist-cum-Special Judge, SC/ST Act, Nawada in Warisaliganj P.S. Case No. 97 of 2020 is set aside. The present Criminal Appeal is *allowed*.

Let the appellant, above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned Additional District & Sessions Judge-Ist-cum-Special Judge, SC/ST Act, Nawada in Warisaliganj P.S. Case No. 97 of 2020.

Once the normalcy is restored, the appellant shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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