

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.563 of 2023

Arising Out of PS. Case No.-330 Year-2022 Thana- WARISNAGAR District- Samastipur

1. RAUSHAN PASWAN @ RAUSHAN KUMAR S/O NATHUNI PASWAN Resident of village- Satmalpur, P.S.- Warisnagar, District- Samastipur.
2. MD. AALE S/O LATE GULAM RASUL Resident of village- Satmalpur, P.S.- Warisnagar, District- Samastipur.
3. MD. ANSABUL S/O LATE GULAM RASUL Resident of village- Satmalpur, P.S.- Warisnagar, District- Samastipur.
4. MD. TINKU @ MD. ELAHI S/O LATE GULAM RASUL Resident of village- Satmalpur, P.S.- Warisnagar, District- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. RAJ KUAMRI DEVI W/O LATE LAXMI PASWAN Resident of village- Satmalpur, P.S.- Warisnagar, District- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Abhay Shankar Singh
For the Respondent/s	:	Mr. Binay Krishna
	:	Mr. Pramod Kumar Singh
	:	Mr. Pravin Kumar
	:	Mr. Anand Shankar

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 03-05-2023 Heard learned counsel for the appellants and learned Special Public Prosecutor for the State assisted by learned counsel for the respondent no.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 anticipatory bail vide order dated 12.12.2022 passed by learned Special Judge,



SC/ST (POA) Act, Samastipur in connection with Warisnagar P.S. Case No. 330/2022, registered under Sections 147, 149, 323, 302, 504 and 506 of the Indian Penal Code and Section 3 (1) (r), (s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

There is allegation against the appellants and others co-accused assaulted the husband of the informant and during the treated he died.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. The post-mortem report does not support the prosecution case. Under any circumstance it cannot be said to be a case of murder on account of husband of the complainant being member of SC/ST community and as such no case under Section 302 of the I.P.C. or under the provisions of SC/ST Act is made out. There is no specific overt act against any of these appellants. Appellants have got no criminal antecedent as mentioned in para-3 of memo of appeal.

Learned Spl. PP for the State opposes the prayer for bail and fairly submits that the the post-mortem report does not support the prosecution case.

In the facts and circumstances of the case and the fact



that there is no specific overt act against the appellants, let the above named appellants, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (POA) Act, Samastipur in connection with Warisnagar P.S. Case No. 330/2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

Accordingly, the impugned order is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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