

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1302 of 2023**

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

BHOLA KHAN @ FAHIM KHAN SON OF MD. SULEMAN KHAN R/O
MURLACHAK, P.S.- WARSALIGANJ, DISTRICT- NAWADA

... .. Appellant/s

Versus

1. The State of Bihar
2. RAJEEV KUMAR @ RAJA SON OF SAHO RAVIDAS R/O
MURLACHAK, P.S.- WARSALIGANJ, DISTRICT- NAWADA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Amresh Kumar Sinha, Adv.
For the Respondent/s : Mr. Binay Krishna, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 23-05-2023 Heard learned counsel for the appellant and
learned Special P.P. for the State.

At the outset, learned Special P.P. for the State has informed this Court that vide letter No. 604 dated 10.05.2023 received from the Superintendent of Police, Nawada, in compliance of the order dated 27.04.2023, notice has been served to the respondent No.2, who is informant in this case, on 08.05.2023. The aforesaid letter along with anenxures is taken on record.

Despite valid service of notice upon the respondent No.2, nobody chose to appear before this Court on behalf of respondent No.2-informant. Hence, the present



appeal is being heard and disposed of.

This appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 has been directed against the order dated 20.01.2023 passed by learned Special Judge SC/ST Act, Nawada in connection with Warsaliganj P.S. Case No. 97 of 2020 registered under Sections 147, 148, 149, 341, 323, 307, 302, 504 and 506 of the Indian Penal Code and Section 3(1)(r)(s) and 3(2)(v) of SC/ST (POA) Act and Section 27 of the Arms Act, whereby the prayer for bail of the appellant has been rejected.

Learned counsel appearing for the appellant submits that the appellant, who is of clean antecedent, is innocent and has not committed any offence. He further submits that from perusal of the F.I.R. it appears that the F.I.R. is narrated in two parts; in the first part of the F.I.R., twenty seven persons along with 20-25 unidentified persons have been named with general and omnibus allegation of hurling abuses to the informant with his caste name and in the subsequent part of the F.I.R., co-accused, Md. Irfan is alleged to have opened fire upon Madan Ravidas, Jai Ram Ravidas and Papur Manjhi causing fire arm injuries. He



further submits that it appears from the F.I.R. itself that no specific allegation of assault or firing is attributed to the appellant. He further submits that no case attracting the provision of SC/ST Act is made out against the appellant. He further submits that the police after investigation has submitted charge-sheet in this case against the appellant. He further submits that co-accused, Doman Quraishi @ Ahmad Quraishi and Md. Naim Khan @ Naim Mohammad Khan @ Naim Khan have already been granted bail vide order dated 03.09.2021 and 16.08.2021 passed in Cr. Appeal (SJ) No. 3422 of 2022 and Cr. Appeal (SJ) No. 863 of 2021, respectively and altogether 10 co-accused persons have also been allowed bail vide order dated 14.09.2020 and 03.12.2020 passed in Cr. Appeal (SJ) No. 1373 of 2020 and Cr. Appeal (SJ) No. 1410 of 2020, respectively. Hence, the appellant may be granted the privilege of bail and impugned order may be set aside as appellant is rotting in judicial custody since 22.12.2022.

Learned Special P.P. appearing for the State has vehemently opposed the prayer for bail of the appellant.

Considering the facts and circumstances of the case, let the above named appellant be released on bail on



furnishing bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Court, SC/ST (POA) Act, Nawada in connection with Wasaliganj P.S. Case No. 97 of 2020.

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

(Rajesh Kumar Verma, J)

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