

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1580 of 2023

Arising Out of PS. Case No.-408 Year-2022 Thana- WARISLIGANJ District- Nawada

Munna Mahto @ Rahul Kumar Son Of Brajesh Mahto @ Brijnandan
Resident Of Village- Jhour, Ps- Warisliganj, Distt- Nawada

... .. Appellant/s

Versus

1. The State of Bihar
2. Birendra Tanti Son Of Shri Tanti Resident Of Village- Jhour, P.S.-
Warisliganj, Distt- Nawada

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 1604 of 2023

Arising Out of PS. Case No.-408 Year-2022 Thana- WARISLIGANJ District- Nawada

Purushotam Kumar @ Purushottam Mahto S/O Late Jagdish Mahto R/O
Village- Jhour, P.S- Warisliganj, Distt.- Nawada.

.. ... Appellant/s

Versus

1. The State of Bihar
2. Birendra Tanti S/O Shri Tanti R/O Village- Jhour, P.S- Warisliganj, Distt.-
Nawada.

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 1580 of 2023)

For the Appellant/s : Mr. Man Mohan Kumar, Advocate

For the Respondent/s : Mr. Usha Kumari 1, Spl.P.P.

(In CRIMINAL APPEAL (SJ) No. 1604 of 2023)

For the Appellant/s : Mr. Man Mohan Kumar, Advocate

For the Respondent/s : Mr. Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

2 23-06-2023 Heard learned counsel appearing for the appellants,

learned counsel appearing on behalf of the Informant

(Respondent No. 2) and learned Special Public Prosecutor for

the State.

This is an appeal under Sections 14(A)(ii) of the

Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for regular bail vide order dated 15.02.2023 passed by the learned I/C Special Judge, Exclusive Special Court SC/ST (POA) Act, Nawada in connection with Warisaliganj P.S. Case No. 408 of 2022, F.I.R. dated 24.07.2022 registered under Sections 147, 148, 149, 341, 323, 504, 506, 354B, 302 of the Indian Penal Code and Sections 3(i)(r)(s) of SC/ST (POA) Act as well as Section 27 of the Arms Act.

The prosecution case, in short, is that all the accused persons came with deadly weapons entered into the house of the informant and started abusing by calling caste name and assaulting. It is specifically alleged that on the order of Purushotam Mahto, co-accused Brajesh Mahto shot fire on the chest of the nephew of the informant, as a result of which, he sustained gunshot injuries and died at the spot. The accused persons also outraged the modesty of the women of the informant’s side.

Learned counsel for the appellants submits that the appellants are innocent and they have been falsely implicated in the present case. He further submits that it appears from the F.I.R. that there is general and omnibus allegation against all the accused persons including these appellants and rather there is



specific allegation against co-accused Brajesh Mahto who fired upon the victim and at best the appellants are the member of mob and there is no allegation of accusation of any assault or overt act attributed against these appellants. He further submits that co-accused person namely Pintal Mahto @ Pankaj Kumar has been granted bail by a Coordinate Bench of this court vide order dated 04.05.2023 passed in Cr. APP (SJ) No. 1207 of 2023 and the police after investigation submitted chargesheet against the appellants and the appellants namely Munna Mahto @ Rahul Kumar and Purushotam Kumar @ Purushottam Mahto are in custody since 15.11.2022.

Learned counsel appearing for the Informant as well as learned Special Public Prosecutor for the State, on the other hand, have vehemently opposed the prayer for bail of the appellants and submits that appellants carries two criminal antecedents other than the present one.

Considering the facts and circumstances of the case, let the appellants, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Court SC/ST (POA) Act, Nawada/Special Judge SC/ST (POA) Act, Nawada in



connection with Warisaliganj P.S. Case No. 408 of 2022, with the following conditions :-

(1) Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

(2) If the appellants tamper with the evidence or the witness, in that case, the prosecution will be at liberty to move for cancellation of bail.

(3) And, further condition that the court below shall verify the criminal antecedents of the appellants and in case at any stage, it is found that the appellants have concealed their criminal antecedents, the court below shall take step for cancellation of bail bond of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

Accordingly, the impugned order dated 15.02.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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