

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3734 of 2022**

Arising Out of PS. Case No.-436 Year-2022 Thana- WARISLIGANJ District- Nawada

1. JAY PRAKASH YADAV @ JAYPRAKASH YADAV Son of Shital Yadav @ Sito Yadav @ Sato Yadav Resident of Village - Hirmabigha, P.S.- Warisaliganj, District - Nawada
2. Shital Yadav @ Sito Yadav @ Sato Yadav Son of Late Saudagar Yadav Resident of Village - Hirmabigha, P.S.- Warisaliganj, District - Nawada

... .. Appellant/s

Versus

1. The State of Bihar
2. Sidho Manjhi Son of Prabhu Manjhi Resident of Village - Manjaur (Kewal bigha), P.S.- Warisaliganj, District - Nawada

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manisha Prakash
For the Respondent/s : Mr. Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER**

4 02-02-2023 Though notice has been issued to O.P. No. 2, no one has turned up to assist the Court.

Heard learned counsel for the appellants and learned Special Public Prosecutor for the State.

The instant appeal has been filed by the appellants against the order dated 13.10.2022 passed by learned Exclusive Special Court, Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, Nawada in BP No. 5146 of 2022 whereby the prayer for bail of the appellants in connection with Warsaliganj P.S. Case no. 436 of 2022 under Sections 147, 149, 323, 302 of the Indian Penal Code and sections 3(2)(v)/(a) of



SC/ST Act was rejected.

As per allegation in the FIR, 10-11 accused persons including the appellants are of assaulting the informant's son brutally by taking his caste name as a result of which he died on spot.

It is submitted by learned counsel for the appellants that appellants have been falsely implicated in this case due to previous enmity and dirty village politics. Both the appellants are son and father. They have got no criminal antecedent. No offence is made out under the provisions of the SC/ST Act against them. The appellants have not taken the caste name of the informant in public view and they had no intention to disgrace his image. General and omnibus allegation has been attributed against the appellants. As per postmortem report only 2-3 external injuries were found on the body of the deceased whereas assailants are said to be 11-12 in numbers, which falsify the prosecution story. Appellants are languishing in judicial custody since 12.08.2022.

The appeal for bail is opposed by learned Spl. P.P. for the State.

Having heard learned counsel for the parties and taking into consideration that there is general and omnibus



allegation against the appellants, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 13.10.2022 passed in B.P. No 5146 of 2022 is hereby set aside.

The appellants are directed to be enlarged on bail in connection with Warsaliganj P.S. Case No. 436 of 2022 in the event of arrest or surrender before the court below within a period of four weeks on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Court, Scheduled Caste and Scheduled Tribes (POA), Nawada.

(Sunil Kumar Panwar, J)

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