

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.570 of 2024

Arising Out of PS. Case No.-475 Year-2023 Thana- ROSERA District- Samastipur

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1. Lal Babu Yadav S/O Sunar Yadav @ Surendra Yadav @ Surendra Kr. Yadav R/O Village- Kankar, P.S- Hathauri, Distt.- Samastipur.
 2. Surendra Kumar Yadav @ Surendra Yadav S/O Lal Babu Yadav R/O Village- Kankar, P.S- Hathauri, Distt.- Samastipur.
 3. Shambhu Yadav S/O Rajendra Yadav R/O Village- Kankar, P.S- Hathauri, Distt.- Samastipur.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Geeta Devi W/O Santosh Paswan R/O Village- Kankar, P.S- Hathauri, Distt.- Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Pratik, Advocate
For the Respondent/s : Ms.Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

3 13-03-2024 Heard learned counsel for the appellants, learned counsel for the informant and learned Special Public Prosecutor for the State.

2. The instant appeal has been filed by the appellants against the order dated 21.12.2023 passed by learned Special Judge, S.C./S.T. (POA) Act, Samastipur whereby the prayer for bail of the appellants in connection with Rosera P.S. Case no. 475 of 2023 under Sections 302, 120B/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(1)(s), 3(1)(r), 3(2)(va) of SC/ST (POA) Act was rejected.



3. As per prosecution case, the appellants along with co-accused surrounded the informant's husband namely, Santosh Paswan and shot him by pistol.

4. It is submitted by learned counsel for the appellants that appellants are innocent and have committed no offence. They have been falsely implicated in this case due to local village politics and caste rivalry. They have not taken the caste name of the informant in public view. Hence, no offence is made out under the provisions of the SC/ST Act against them. The informant is not the eye witness of the alleged occurrence. The appellants are languishing in judicial custody since 13.08.2023.

5. The appeal for bail is opposed by learned Spl. P.P. for the State and learned counsel for the informant.

6. From perusal of the F.I.R. and impugned order dated 21.12.2023, it appears that on the basis of written report of informant namely, Geeta Devi F.I.R. registered against the 12 accused persons including all the three appellants. Investigation is already concluded and police submitted report after conclusion the investigation. In the impugned order passed by learned Special Judge, SC/ST Act, Samastipur, it is mentioned that from perusal of the case diary and charge-sheet, it appears



the accused/appellants namely, Lal Babu Yadav, Surendra Yadav @ Chhotu Yadav and Shambhu Yadav were not sent-up by the police as the police did not found their involvement in the occurrence and the police found the case true with respect to co-accused Purushottam Chaudhary and other co-accused.

7. Considering the facts and circumstances of the case and submissions made on behalf of the appellants and learned trial court deferred from the report submitted by the I.O. as during the investigation, police did not found any involvement of the appellants in the alleged occurrence and the trial court has taken cognizance against them and also period of custody of the appellants, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 21.12.2023 is hereby set aside.

7. Let the appellants be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, S.C./S.T. (POA) Act, Samastipur in connection with Rosera P.S. Case No. 475 of 2023.

(Ramesh Chand Malviya, J)

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