

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.593 of 2024

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

Purushottam Chaudhary @ Purshottam Chaudhary @ Purushttam Chaudhary, Male, aged about 29 years, Son of Umesh Chaudhary @ Umesh Prasad Choudhary, Resident of Village-Rahiyar (Rahiyar Konchi), (Rahiyar Kochi), (Rahiar Kunchi), Ward No. 03, P.S.-Hathauri (Shiwaji Nagar O.P.), District-Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Geeta Devi, Female, age about 35 years, Wife of Santosh Paswan, Resident of Village-Kankar, Post-Rahiyar Konchi, Panchayat, Rahiyar, South, P.S. Hathauri (Shiwaji Nagar O.P.), District-Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sandip Kumar Gautam, Advocate
For the Respondent/s : Mr. Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

4 23-05-2024 Heard learned counsel for the appellant, learned counsel for the informant and learned Special Public Prosecutor for the State.

2. The instant appeal has been filed by the appellant 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 appellant in connection with Rosra (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) (r) (s), 3(2)(va) of SC/ST (POA) Act was rejected.



3. As per prosecution case, the appellant 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 appellant that appellant is innocent and has committed no offence. He has been falsely implicated in this case due to local village politics and caste rivalry. The informant is not the eye witness of the alleged occurrence. The name of the appellant has been surfaced only on the basis of confessional statement of co-accused. The appellant is not named in the FIR. There is no specific allegation against the appellant. The appellant is languishing in judicial custody since 16.10.2023.

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 this appellant. 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 that the police found the case true with respect to other co-accused.



7. Considering the facts and circumstances of the case and submissions made on behalf of the appellant and also the fact that similarly situated appellants have already been granted bail by a co-ordinate Bench of this Court in Cr. Appeal (SJ) No. 570 of 2024 vide order dated 13.03.2024 and also considering the period of custody of the appellant, 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.

8. Let the appellant be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) 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 Rosra (Rosera) P.S. Case No. 475 of 2023.

(Ramesh Chand Malviya, J)

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