

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1169 of 2024

Arising Out of PS. Case No.-280 Year-2023 Thana- PAKRIDAYAL District- East Champaran

1. Genamati Devi Wife of Late Nageshwar Paswan Resident of Village- Sishani, Ps- Pakaridayal, Dist- East Champaran
2. Sarita Devi Wife of Prabhakar Paswan Resident of Village- Sishani, Ps- Pakaridayal, Dist- East Champaran
3. Haribansh Paswan Son of Bal Narayan Paswan Resident of Village- Sishani, Ps- Pakaridayal, Dist- East Champaran

... .. Appellant/s

Versus

1. The State of Bihar.
2. Sunita Devi Wife of Jay Kishore Paswan Resident of Village- Sishani, Ps- Pakaridayal, Dist- East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Alka Singh, Adv.
For the Respondent/s	:	Mr. Sadanand Paswan, SPP
For the Resp. No.2	:	Mr. Jai Prakash Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

4 20-06-2024 Heard learned counsel for the appellants, learned Special Public Prosecutor for the State and learned counsel for the respondent no.2. Perused the case diary.

2. The instant appeal has been filed by the appellants against the order dated 30.01.2024 passed by learned Special Judge, SC/ST East Champaran, Motihari whereby the prayer for bail of the appellants in connection with Pakaridayal P.S. Case No. 280 of 2023 under Sections 302, 307, 336, 201, 120(B), 34 of the Indian Penal Code and Section 17/25(g)/27 of the Arms



Act and Section 3(2) (va) of the SC/ST Act was rejected.

3. The prosecution case, in short, is that on 13.12.2023, the son of the Informant Gaurav Kumar and Govind Kumar had gone to attend the marriage ceremony of the daughter of one Akhilesh Paswan where her son/Govind Kumar was killed on account of firing and two other persons got injured. The accusation against the appellants is of being involved in concealing the dead body of the deceased wrapped with blanket in a field.

4. Learned counsel for the appellants submits that the appellants have falsely been implicated in the present case due to village politics. Charge-sheet has been submitted in this case. He further states that the main allegation of firing is against Prabhakar Paswan and Bhoolar Shah @ Amit. There is no specific or direct allegation of any overt act against the appellants rather the same are general and omnibus in nature. He further submits that the provisions under the SC/ST Act are not attracted. The appellant no.1 has two criminal antecedents and in both of them, she is on bail. The appellant no.2 has one criminal antecedent whereas the appellant no.3 has no criminal antecedent. The appellants are in custody since 15.12.2023.

5. Learned Special P.P. for the State and the informant



have vehemently opposed the prayer for grant of bail to the appellants.

6. Considering the entire facts and circumstances of the case and the period of custody undergone by the appellants as also there being no specific allegation against the appellants, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 30.01.2024 passed by learned Special Judge, SC/ST East Champaran, Motihari is hereby set aside.

7. Let the appellants, abovenamed, be released on bail *after framing of charge, if not already framed* on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Pakaridayal P.S. Case No. 280 of 2023, subject to following conditions;

(i) One of the bailor(s) shall be the own/close family members of the appellants.

(ii) The appellants shall cooperate 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 in the event of failure on two consecutive dates without sufficient reasons, their bail bond shall be liable to be



cancelled by the court below.

(iii) If the appellants tamper with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses, during the investigation or trial, in that case, prosecution will be at liberty to move for cancellation of bail of the appellants.

(Rudra Prakash Mishra, J)

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