

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1642 of 2024

Arising Out of PS. Case No.-14 Year-2024 Thana- WARISLIGANJ District- Nawada

Surendra Yadav, Son of Brahamdev Yadav, Resident of Village- Jhour (Jhawor), P.S. Warisaliganj, District Nawada.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Fulwa Devi, W/o Rajendra Pasi, Resident of Village- Mosma, P.S.- Warisaliganj, District- Nawada.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sheo Kumar Prasad, Advocate
For the Respondent/s : Mrs. Usha Kumari No. 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 25-07-2024 1. Heard learned counsel for the appellant and learned Special P.P. for the State.

2. The present appeal preferred against the order dated 28.02.2024 passed by the learned Exclusive Special SC/ST (POA) Act Court Nawada in B.P. No. 193/2024 in connection with Warisaliganj P.S. Case No. 14/2024 for the offence registered under Sections 324, 307, 34 of the Indian Penal Code and Section 27 of the Arms Act and Sections 3(2)(v) of the SC/ST (POA) Act, 1989.

3. Through aforesaid order dated 28.02.2024,



the provisional bail as granted to the appellant, namely, Surendra Yadav vide order dated 29.01.2024 was recalled/not confirmed.

4. It is submitted by learned counsel that while granting provisional bail to appellant/convict, the learned trial court found the merit in favour of appellant/convict which was on similar footing to that of co-accused, Siyasan Yadav and by considering the parity, appellant was directed to released on provisional bail but vide order dated 28.02.2024, the provisional bail of co-accused Siyasan Yadav was confirmed, whereas, the provisional bail of appellant/convict was recalled/not confirmed. It is submitted that in such way, learned trial court itself, contradicted its finding *qua* merit in favour of appellant, which was observed as of similar footing to that of co-accused Siyasan Yadav. It is submitted that without assigning any fresh reason, the provisional bail of appellant was not confirmed by learned special court.

5. Learned counsel further submitted that the



specific allegation of firing as per FIR is available against co-accused Sandip Yadav, who is the son of this appellant, as to cause firearm injury on the chest of husband of informant during the occurrence, where, implication of this appellant is appearing out of relation only, being father, with aid of Section 34 of the Indian Penal Code like co-accused, Siyasaran Yadav, whose bail was confirmed by learned Special Court.

6. It is further submitted that the occurrence is arising out of land dispute, which is apparent from the FIR itself, and it cannot be said that same is out of atrocities as defined within the meaning of SC/ST (POA) Act, 1989 and therefore, the allegation of SC/ST Act is also not appearing convincing on its face. In support of his submission, learned counsel relied upon the report of ***Gulam Mustafa Vs State of Karnataka and Another*** reported in ***2023 SCC OnLine SC 603***.

7. It is submitted by learned Special PP that information regarding present proceeding already given



to the informant, in terms of order dated 18.07.2024.

8. Despite of information, regarding present proceeding, in view of submission of learned Spl. PP, informant failed to join present proceeding.

9. Learned Spl. PP while opposing the prayer, submitted that the injured stated regarding involvement of appellant in the occurrence.

10. Considering the aforesaid facts as learned Special Court failed to supply any reasons contrary to its finding vide order dated 29.01.2024, where the case of appellant was found on similar footing to that of co-accused Siyasharan Yadav whose bail was confirmed through impugned order dated 28.02.2024 itself, accordingly, impugned order dated 28.02.2024 passed by the learned Exclusive Special SC/ST (POA) Act Court Nawada in B.P. No. 193/2024 in connection with Warisaliganj P.S. Case No. 14/2024 qua appellant/accused is hereby quashed and set aside.

11. Hence, appeal stands allowed.



12. Appellant/accused is directed to be released on bail, during the pendency of the appeal, furnishing fresh bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special SC/ST Court Nawada in B.P. No. 193/2024 in connection with Warisaliganj P.S. Case No. 14/2024.

13. Let copy of this judgment be sent to learned trial court immediately alongwith T.C.R., if any.

(Chandra Shekhar Jha, J)

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