

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2037 of 2024

Arising Out of PS. Case No.-197 Year-2019 Thana- TARARI District- Bhojpur

Sunil Yadav @ Sunil Kumar, Son of Hira Lal Yadav, Resident of Village -
Rajpur, P.S. - Imadpur, District - Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Santosh Kuamr, Son of Jhari Ram, Resident of Village - Bihta, P.S. -
Imadpur, District - Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Raju Singh, Adv.

For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 18-12-2024 Heard learned counsel for the appellant and learned
Spl. P.P. for the State.

2. On the last occasion on 23.08.2024, the Special Public Prosecutor for the State was requested to get the notice served upon respondent no.2 in connection with the present case. Despite the information given to him, there is no representation on behalf of respondent no.2.

3. This is an appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 20.04.2023 passed by the learned Exclusive Special Judge,



SC/ST, Bhojpur at Ara in connection with Tarari P.S. Case No. 197 of 2019 registered for the offences punishable under Section 302/34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(i)(r)(s)(2)(va) of the SC/ST Act.

4. This is the third attempt on behalf of the appellant assailing the order, whereby the prayer for bail of the appellant has been turned down.

5. On the last occasion, while dismissing the prayer for bail of the appellant, the learned Trial Court was directed to expedite the trial and take all the endeavours to conclude the same, as early as possible, preferably within a period of one year. Despite the rejection of the prayer for bail of the appellant on 16.08.2023, till date not a single witness has been examined.

6. Learned counsel for the appellant submitted that earlier twice the prayer for bail of the appellant had been dismissed and, as such, he is not making any submission on the merit(s) of the case. However, this fact cannot be ignored that the occurrence took place on 15.10.2019 at 07:00 AM and when the police came to know about the incidence, they rushed to the place of occurrence, however, as there was some law and order problem because of the assemblage of the local people, the inquest report could not be prepared. It has also transpired



during the course of investigation that neither the informant nor his family members informed the police about the occurrence and, for the first time, the report has been submitted to the police at about 02:30 PM, which also shows that it is a case of deliberation and afterthought. Other co-accused persons having allegation of indiscriminate firing, have been allowed the privilege of bail by the learned co-ordinate Bench of this Court. It is lastly contended that be that as it may, now the appellant has been incarcerated since 24.08.2021 and there is no likelihood of the conclusion of trial in near future.

7. On the other hand, learned Spl. P.P. for the State opposed the prayer for bail of the appellant and submitted that the appellant is said to be one of the assailant and this fact is also corroborated by the postmortem report, which suggests that the deceased has sustained three firearm injury.

8. Regard being had to the submissions made on behalf of the parties and considering the observation made by this Court on the last occasion and the fact that despite the framing of charge on 15.04.2023, till date no witness has been examined; there is bleak chance of the conclusion of trial in near future, coupled with the fact that other co-accused persons have been allowed bail, let the appellant, above named, be released on



bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XII, Bhojpur at Ara, in connection with Tarari P.S. Case No. 197 of 2019, subject to the condition that one of the bailors will be the close relative of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

9. Accordingly, the impugned order dated 20.04.2023 is hereby set aside and the present appeal stands allowed.

(Harish Kumar, J)

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