

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4769 of 2023

Arising Out of PS. Case No.-393 Year-2020 Thana- KAUWAKOL District- Nawada

Sharwan Yadav @ Rajaram Yadav Son Of Nakul Yadav Resident Of Village-
Risri, Ps -Sikandra, District- Jamui

... .. Appellant/s

Versus

1. The State of Bihar
2. Chhotelal Rajbanshi Son Of Dowarik Rajbanshi Resident Of Village-
Benipur, Ps- Kawakole (O.P. Rupou), Distt- Nawada

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sheo Kumar Prasad
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

5 31-01-2024

Heard the parties.

2. The present appeal has been filed against the order dated 13.09.2023 passed by learned Exclusive Special Judge SC/ST, Nawada whereby and whereunder the prayer for bail of the appellant in connection with Kawakole (O.P. Rupau) P.S. Case No. 393 of 2020, B.P. No. 1324 of 2023 for the offence punishable under Sections 302, 201, 120 (B)/34 of the IPC and Section 3(r)(v) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act was rejected.

3. As per prosecution case, informant's brother, Ashok Rajvanshi, proceeded for watching the harvest of the field but he did not return and it is alleged that dead body of Bachhu



Rajvanshi and Ashok Rajvanshi were found at the place where their necks had been chopped and clothes were found in mouth of the dead bodies and there was much blood found at the place of occurrence.

4. The appellant is in judicial custody since 29.08.2023 and bears criminal antecedent of three cases. He further submits that charge sheet has been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel for the appellant submits that appellant is not named in the FIR and his name transpired in the case during the course of investigation on the basis of suspicion. Except suspicion, there is nothing on record to demonstrate the complicity of appellant with the alleged occurrence. There is no eye witness to the alleged occurrence which is evident from the FIR. Learned counsel submits that appellant is quite innocent and has falsely been implicated in the case. In the light of aforesaid facts and circumstances, no case is made out against the appellant under Section SC/ST Act. He further submits that co-accused, Kamlesh Yadav, has already been granted bail vide Cr. APP. (SJ) No. 3976 of 2022 by the co-ordinate Bench of this Court and the case of present appellant stands on similar footing.



5. Learned Special Public Prosecutor for the State vehemently opposed the prayer of bail of the appellant.

6. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, period of custody, co-accused has already been granted bail, argument advanced on behalf of both sides and also taking into consideration the material available on record, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated passed by learned Exclusive Special Judge SC/ST, Nawada in connection with Kawakole (O.P. Rupau) P.S. Case No. 393 of 2020, B.P. No. 1324 of 2023 is set aside.

7. The appellant is directed to be enlarged on bail in connection with Kawakole (O.P. Rupau) P.S. Case No. 393 of 2020, B.P. No. 1324 of 2023 on furnishing bail bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge SC/ST, Nawada, subject to following conditions:-

(i) One of the bailors shall be either father or mother or brother or wife of the person who has sworn the affidavit in the instant appeal.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates



without appropriate permission, would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

vashudha/-

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