

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3174 of 2024

Arising Out of PS. Case No.-306 Year-2022 Thana- WARISNAGAR District- Samastipur

Md. Sarfaraz @ Md. Sarfaraj @ Md. Shakeel Son of Md. Usuf @ Md. Yusuf
@ Md. Yunus R/O Vill.- Manjil Mubarak Kishunpur, P.S.- Kalyanpur, Dist.-
Samastipur

... .. Appellant

Versus

1. The State of Bihar.
2. Mamata Kumari Wife of Late Sandeep Kumar R/O Vill.- Hajpurva, P.S.-
Warisnagar, Dist.- Samastipur

... .. Respondents

Appearance :

For the Appellant/s : Mr. Jitendra Sinha, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 15-05-2025 Despite valid service of notice, no one appears on
behalf of the respondent No. 2.

2. Heard learned counsel for the appellant and the
learned Special Public Prosecutor for the State.

3. This criminal appeal has been filed against the
order dated 25.05.2024 passed by learned Special Judge, SC/ST
(PoA) Act, Samastipur in ABP No. 598 of 2024 in connection
with Warisnagar P.S. Case No. 306 of 2022, instituted under
Sections 302, 201, 120B and 34 of the Indian Penal Code and
Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, whereby the prayer for
anticipatory bail of appellant has been rejected.

4. Prosecution case, in brief, is that on 04.10.2022



the husband of informant received a call and thereafter went outside telling the informant that he will return after ten minutes, however he did not return till late night. The informant along with family members tried to search for her husband but she could not find him. It is further alleged that on 05.10.2022, informant received information that a dead body was lying near bamboo clump situated in the orchard of one Shivshankar Thakur and when the informant reached at the place of occurrence she identified the deceased as her husband and noticed that there was a sharp cut marks on the face and body of the deceased. It is further alleged that few days prior to the incident co-accused persons used to visit the house of the informant and abused him and also threaten him that they would kill him if he did not take down the previous case which he had filed. The informant suspects that the FIR named accused persons have killed her husband.

5. Learned counsel for the appellant submits that appellant is innocent and has committed no offence. He further submits that appellant is not named in the FIR and his transpired in the present case on the basis of confessional statement of the co-accused Md. Zahid who had stated that the deceased had illicit relationship with his sister so with the help of other co-accused persons he killed the informant's husband. It is further



submitted that apart from the confessional statement of the co-accused person, there is no direct or indirect evidence to connect the appellant with the alleged offence. It is not the case of informant that alleged incident occurred within the public view, as such, no offence under SC/ST Act is made out against appellant. Appellant claims clean antecedent.

6. Learned Spl. Public Prosecutor for the State opposed the bail application.

7. Considering the aforesaid facts, let the appellant, as named above, in the event of his arrest/surrender within a period of eight weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (PoA) Act, Samastipur in connection with **Warisnagar P.S. Case No. 306 of 2022.**

8. Accordingly, this criminal appeal is allowed and impugned order dated 25.05.2024 is set aside with respect to this appellant only.

(Prabhat Kumar Singh, J)

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