

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3582 of 2024

Arising Out of PS. Case No.-120 Year-2021 Thana- WARISNAGAR District- Samastipur

Himalay Giri @ Himalay Kumar Giri S/o Tribhuj Giri Resident of village
Kishanpur Baikunth Hayaghat Warsinagar PS Warsinagar District Samastipur
Bihar 848133

... .. Appellant/s

Versus

1. The State of Bihar
2. Rajdeo Paswan S/o Ram Sohag Paswan @ Dihar Paswan R/o Kishanpur
Baikunth ward no. 10, P.S. - Warsinagar, Distt. - Samastipur, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Santosh Bharti, Advocate
	:	Mr.Apurva Kumar, Advocate
For the Respondent/s	:	Ms.Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 13-05-2025 Heard Mr.Santosh Bharti, learned counsel for the

appellant, learned counsel for respondent No.2 and Ms.Usha

Kumari 1, learned Spl.P.P. for the State.

2. This is an appeal under Section 14 (A)(ii) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 2016 (hereinafter referred to as the “SC/ST
Act”) against the refusal of prayer for anticipatory bail vide
order dated 01.05.2024 passed by the learned Special Judge
SC/ST (P.O.A.) Act, Samastipur, in ABP No.1153 of 2024 in
connection with Warisnagar P.S. Case No.120 of 2021, F.I.R.
dated 24.05.2021 registered under Sections 302,504, 506 & 34
of the Indian Penal Code and Section 3(i)(v), 3 (ii) and (va) of



the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and Section 25(1-b)a, 26, 27 and 35 of the Arms Act.

3. According to FIR, before death, the brother of the informant told the informant that the appellant along with other co-accused persons namely, Tribhuj Giri and Suman Giri have fired upon him and thereafter they fled away.

4. Learned counsel for the appellant submits that the appellant has clean antecedent and he has falsely been implicated in the present case. Although the informant is not the eye witness of the alleged occurrence and the present FIR has been instituted on the basis of the so called dying declaration of the deceased and he has informed the informant that three persons including the appellant have fired upon the victim. Although cause of death is firearm injury but the postmortem report reveals that only one firearm injury was found on the person of the deceased which suggests that who has fired upon the victim is not clear.

5. The learned counsel for respondent No.2 as well as learned Spl.P.P. for the State have vehemently opposed the prayer for anticipatory bail of the appellant and submits that the anticipatory bail of co-accused person, namely, Tribhuj Giri,



against whom the similar allegation, has been rejected by a Coordinate Bench of this Hon'ble Court vide order dated 29.06.2022 passed in Cr.Appeal (SJ) No.3704 of 2021.

6. After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Schedule Castes and Scheduled Tribes Act is made out.

7. Considering the aforesaid facts, appellant has clean antecedent, postmortem report of the deceased does not support the allegation as alleged in the FIR, only one entry wound and one exit wound was found on the person of the deceased and as per FIR, allegation against the appellant is that he alongwith other co-accused persons have fired upon the victim, let the appellant, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.10,000 (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge SC/ST (P.O.A.) Act, Samastipur, in connection with Warisnagar P.S. Case No.120 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure/ Section 482(2) of BNSS,2023 and with other following conditions:-



(I) Appellant shall co-operate 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 on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be cancelled by the Court below.

(II) 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.

(III) And, further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

8. Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

Nitesh/-

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