

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5089 of 2024

Arising Out of PS. Case No.-101 Year-2024 Thana- VIDYAPATINAGAR District-
Samastipur

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Rajesh Paswan Son of Paltan Paswan Village -Mau Dhaneshpur PS-
vidyaptinagar Dist- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Sahdev Kumar son of Sobhit Paswan Village -Mau Dhaneshpur PS-
vidyaptinagar Dist- Samastipur

... .. Respondent/s

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Appearance :
For the Appellant/s : Mr. Madhav Kumar, Adv.
For the Respondent/s : Mr. Binay Krishna, APP
For the Resp. No.2 : Mr. Bambahadur Jha, Adv.

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 06-03-2025 Heard learned counsel for the appellant, learned

Special Public Prosecutor for the State and learned counsel for

the Informant. Perused the case diary.

2. The instant appeal has been filed by the appellant

against the order dated 04.10.2024 passed by learned Special

Judge SC/ST (POA) Act, Samastipur whereby the prayer for

bail of the appellant in connection with Vidyapatinagar P.S.

Case No. 101 of 2024 under Sections 109(1), 61(2), 352, 3(5) of

the B.N.S., Section 27 of the Arms Act and Sections 3(1)(r),

3(1)(s), 3(1)(w), 3(2)(va) of SC/ST (PoA) Act, was rejected.

3. As per prosecution case, the accusation against the



accused persons including the appellant is of attempting to commit murder of the Informant's father by firing. It is alleged that the co-accused Jhunna Mahto fired on the Informant's father as a result of which he sustained bullet injuries and got injured.

4. Learned counsel for the appellant submits that the appellant is innocent and he has been falsely implicated in the present case with false and frivolous allegations. The appellant has not committed any offence as alleged in the F.I.R. The appellant is not named in the F.I.R. and his name has transpired in this case on the basis of the statement of the co-accused Shobhit Paswan. He further submits that the appellant himself is a member of schedule caste and, hence, no case under the SC/ST is made out against the appellant. There is no specific or direct allegation of any overt act against the appellant rather the same is general and omnibus in nature. The date and time of the alleged occurrence is 18.07.2024 at about 6:00 PM but, the information of the occurrence was given to the police on 19.07.2024 at about 7:30 PM without there being any plausible explanation for such delay and, hence, creates doubt in the prosecution case. Nothing incriminating has been recovered from the conscious possession of the appellant. The appellant



has no criminal antecedent and is languishing in judicial custody since 29.07.2024 without any rhymes or reason. Learned counsel for the appellant further submits that Charge-sheet has been submitted in this case without FSL report and from Para-54 of the case diary, it appears that the supplementary investigation is pending for want of FSL report as well as injury report.

5. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the appellant, stating that the offence alleged against the appellant is serious in nature.

6. Having heard learned counsel for the parties and taking to into account the period of custody undergone by the appellant, the appellant having no criminal antecedent as also there being no specific or direct allegation against the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 04.10.2024 passed by learned Special Judge SC/ST (POA) Act, Samastipur, is hereby set aside.

7. Let the appellant, abovenamed, be released on bail, ***after framing of charge if not already framed***, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court



below/concerned Court in connection with Vidyapatnagar P.S.
Case No. 101 of 2024, subject to following conditions;

(i) One of the bailor(s) shall be the own/close family members of the appellant.

(ii) The appellant shall cooperate 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 in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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