

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.634 of 2016

Arising Out of PS.Case No. -219 Year- 2015 Thana -UDWANTNAGAR District- BHOJPUR

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Rakesh Kumar Choudhary @ Bhindi Choudhary @ Rakesh Choudhary @ Bhaudi Choudhary son of Ravindra Choudhary, resident of village- Anaith, P.S.- Ara Nawada, District- Bhojpur.

.... Appellant

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellant/s : Mr. Shiv Prasad Gupta, Advocate

For the Respondent/s : Mr. Vinay Kumar, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 20-10-2016

By way of the present appeal preferred under Section 14-A(2) of The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act'), the appellant has challenged the order dated 16.06.2016 passed by the learned 1st Additional Sessions Judge, Bhojpur, Ara in B.P. No. 476 of 2016, whereby he has rejected the application for bail of the appellant in connection with Udwant Nagar P. S. Case No. 219 of 2015 registered under Sections 364, 302, 201/34 of the Indian Penal Code and Section 3(1)(x) of the Act.

2. It has been contended by the learned counsel for the appellant that the appellant was not named in the FIR. The FIR was registered only against three accused, namely, Mithu Don



Choudhary, Vinay and Guddu Choudhary and apart from three named accused persons, other unknown persons were also made accused. He has contended that the name of the appellant transpired in course of investigation and the witnesses have only stated that the appellant was also accompanying the other accused persons. He has further submitted that one of the co-accused Vijay Singh @ Chottu Singh whose name also transpired during investigation and whose case is identically situated to that of the appellant has already been granted bail by a co-ordinate Bench of this Court vide order dated 20.09.2016 passed in Cr. Misc. No. 32683 of 2016. He has also contended that another accused, namely, Sanny Kumar Singh has also been granted bail by the learned 4th Additional District and Sessions Judge, Ara.

3. On the other hand, Mr. Vinay Kumar, learned Special Public Prosecutor for the State has opposed the application for grant of bail to the appellant. He has submitted that it is a serious offence of kidnapping coupled with murder in which two nephews of the informant, namely, Dharmendra Kumar Rathore and Birendra Nut were kidnapped and killed. The name of the appellant transpired immediately after institution of the FIR during investigation in the statement of witnesses, namely, Shani Devi, Neeta Devi, Indira Devi, Md. Shafique and Dinesh Singh whose statements have been recorded in para nos. 17, 18, 19, 83 and 84



respectively of the case-diary. Referring to their statements in the case-diary, learned Special Public Prosecutor has submitted that the appellant had actively participated in the commission of the crime along with other accused persons and, hence, the court below has rightly rejected his application for bail. He has further submitted that he would advise the State to take steps for filing cancellation of bail of the co-accused Sanny Kumar Singh who has been granted bail by the court below. It is also submitted that it appears that the evidence collected during investigation against co-accused Sanjay Kumar Singh seems to have been not brought to the notice of the court at the time of consideration of his bail application.

4. I have heard learned counsel for the parties and perused the materials on record. I find force in the submission of the learned Special Public Prosecutor for the State. It is a serious case of kidnapping and multiple murder. The appellant's name transpired during investigation immediately after institution of the FIR. Looking to the gravity of the offence and the role ascribed to the appellant in the alleged kidnapping and murder of two innocent persons, with all due respect to the order passed by this Court in the matter of co-accused Vijay Singh @ Chhotu Singh @ Chhotu who has been granted bail by a co-ordinate Bench. I am unable to persuade myself to grant bail to the appellant.

5. Accordingly, the impugned order passed by the

court below rejecting the application for bail of the appellant is affirmed.

6. The appeal stands dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

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