

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1378 of 2019**

Arising Out of PS. Case No.-416 Year-2018 Thana- BASANTPUR District- Siwan

UTTAM SAH Son of Late Sonelal Sah Resident of Village - Parauli, Sah
Tolla, P.S.- Basantpur, Distt - Siwan.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raghav Prasad

For the Respondent/s : Mr.Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

4 08-07-2019 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

This is an appeal under Section 14 (A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 23.02.2019 passed by learned 1st Additional District & Sessions Judge-cum-Special Court, SC/ST, Act, Siwan in connection with Basantpur P.S. Case No. 416 of 2018, registered under Sections 302/120 (B)/34 of the Indian Penal Code and 27 of the Arms Act and also under Section 3 (2) (v) a of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellant and co-accused Mithilesh Kumar alias



Marai are said to have taken money from the brother of the informant and on demand of money by him there was some altercation between them and on the date of occurrence appellant called his brother in his shop to accord money and all the accused persons gunned him down in the said shop hatching conspiracy.

It is submitted by the learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has no concern with the aforesaid occurrence. The appellant had neither taken any money from the deceased nor had called him at the shop for returning of his money. There is no allegation of overt act against the appellant and as per the case diary it is Mithiles Kumar alias Marai who gunned down the deceased in the shop of the appellant and the appellant has no concern with the said Mithiles Kumar alias Marai. He has been languishing in custody since 24.11.2018. Similarly, situated co-accused Antu Singh has been enlarged on anticipatory bail by this Court passed in Criminal Appeal (SJ) No. 1816 of 2019 vide order dated 05.07.2019.

Learned Spl. P.P. for the State opposing the prayer for bail submitted that appellant and Mithiles Kumar alias Marai had taken money from the deceased and the appellant had called



the deceased at his shop for according him his money and hatching conspiracy in the said shop Mithiles Kumar alias Marai has gunned down the deceased in the shop of the appellant itself. Witnesses have also supported the occurrence of taking money by the appellant and Mithiles Kumar alias Marai from the deceased and calling the deceased in the shop of appellant by the appellant and gunning down the deceased in the shop of appellant and the case of appellant differs from the case of co-accuse Antu Singh @ Antu Kumar @ Antoo Singh. Hence, appellant does not deserve bail.

Considering the facts and circumstances of case, I am not inclined to enlarge the appellant on bail. The prayer for bail of the appellant is hereby rejected.

However, learned Trial Court is directed to conclude the trial preferably within six months from the date of framing of the charge.

Accordingly, the present appeal is dismissed.

(Prakash Chandra Jaiswal, J)

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