

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1446 of 2019

Arising Out of PS. Case No.-146 Year-2019 Thana- BHABHUA District- Kaimur (Bhabua)

Durgesh Prasad Jaiswal @ Durgesh Son of Chhedi Jaiswal Resident of
Village - Kirkala, P.S.- Sonhan (Bhabua), District - Kaimur (Bihar).

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 1975 of 2019

Arising Out of PS. Case No.-146 Year-2019 Thana- BHABHUA District- Kaimur (Bhabua)

Akshay Jiswal Son of Gauri Sah Resident of Village - Odar, P.S.- Sonhan,
District- Kaimur at Bhabua

... .. Appellant/s

Versus

1. The State Of Bihar
2. Usha Devi Wife of Vijay Chaudhari Resident of Village - Kir- Kala, P.S.-
Sonhan, District- Kaimur at Bhabua

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 2170 of 2019

Arising Out of PS. Case No.-146 Year-2019 Thana- BHABHUA District- Kaimur (Bhabua)

Sonu Kumar Jaisawal Son of Munna Jaisawal Resident of Village - Kirkala,
P.S.- Sonhan, District - Kaimur at Bhabua

... .. Appellant/s

Versus

1. The State of Bihar
2. Usha Devi Wife of Vijay Chaudhari R/o Kir-kala, P.S.- Sonhan, District -
Kaimur at Bhabua

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 1988 of 2019



Arising Out of PS. Case No.-146 Year-2019 Thana- BHABHUA District- Kaimur (Bhabua)

1. Dharmendra Jaiswal @ Naga Jaiswal Son of Munna Jaiswal R/o Village Kirkala, P.S. Sonhan, District- Kaimur at Bhabua.
2. Rajesh Jaiswal Son of Kishori Jaiswal R/o Village Kirkala, P.S. Sonhan, District- Kaimur at Bhabua.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Usha Devi Wife of Vijay Chaudhari R/o Village Kirkala, P.S. Sonhan, District- Kaimur at Bhabua.

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 1446 of 2019)

For the Appellant/s : Mr. Vinay Kumar Mishra

For the Respondent/s : Mr. Binay Krishna

(In CRIMINAL APPEAL (SJ) No. 1975 of 2019)

For the Appellant/s : Mr. Tribhuwan Narayan

For the Respondent/s : Mrs. Usha Kumari 1

(In CRIMINAL APPEAL (SJ) No. 2170 of 2019)

For the Appellant/s : Mr. Tribhuwan Narayan

For the Respondent/s : Mrs. Usha Kumari 1

(In CRIMINAL APPEAL (SJ) No. 1988 of 2019)

For the Appellant/s : Mr. Tribhuwan Narayan

For the Respondent/s : Mrs. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

4 25-06-2019 As the aforesaid four criminal appeals have cropped up from the same P.S. Case, hence, they are taken up together for consideration and disposed of by this common order.

Heard learned counsel for the appellants, learned counsel for the informant and learned Spl. PP for the State.

The aforesaid appeals have been filed by the appellants under Section 14(A)(2) of the Scheduled Castes and



Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer for bail vide orders dated 27.03.2019 and 16.04.2019 passed by learned 1st Addl. Sessions Judge-cum-Special Judge, Kaimur at Bhabhua in Bhabua (Sonhan) P.S. Case No. 146 of 2019 registered under Sections 147, 148, 149, 307, 302 of the Indian Penal Code, Sections 25(1-b)/26/27/35 of Arms Act and Section 3(i)(r)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

On the exhortation of Chhedi Jaiswal and Binda Jaiswal, eighteen named accused persons are said to have resorted firing from the terrace by means of firearm resulting into death of Vijay Kharwar and inflicting injury to other persons while on the exhortation of the aforesaid two accused persons, Dev Kumar Jaiswal and Pintu Jaiswal resorted firing upon Munna Chaudhary from terrace resulting into his death.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. Appellants have been falsely implicated in this case due to dirty village politics and animosity. Allegation levelled against the appellants is not specific rather general and omnibus in nature. Appellants are said to have resorted firing from the terrace, but doctor conducting autopsy of the cadaver of the deceased Vijay



Kharwar and Munna Chaudhary has found multiple pellet size lacerated wound with tattooed inverted margin scattered over the body on the persons of the deceased. Said report of the doctor completely rules out the prosecution case as the firearm injury having tattooing mark can be inflicted from 2-3 feet and not from the terrace. Appellants have no criminal antecedent barring appellant Akshay Jaiswal. Appellants Durgesh Prasad Jaiswal @ Durgesh, Sonu Kumar Jaiswal, Dharmendra Jaiswal @ Naga Jaiswal and Rajesh Jaiswal have been languishing in custody since 17.03.2019 while appellant Akshay Jaiswal has been languishing in custody since 24.03.2019.

Learned Spl. PP for the State opposing the prayer of bail submitted that besides two injured some other persons sustained gun shot injury, hence, appellants do not deserve bail.

Having regard to the facts and circumstances of the case, the above named appellants are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Addl. Sessions Judge-cum-Special Judge, Kaimur at Bhabhua in connection with Bhabua (Sonhan) P.S. Case No. 146 of 2019 .

Accordingly, the impugned orders are set aside and



the aforesaid appeals are allowed.

Appellants are directed to extend all sorts of cooperation in conducting of the trial.

(Prakash Chandra Jaiswal, J)

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