

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2494 of 2019

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

1. Binda Prasad Jaiswal @ Binda Jaiswal Son of Late Tulsi Jaiswal Resident of Village - Kirkala, P.S.- Sonhan, District - Kaimur at Bhabhua
2. Chhedi Prasad Jaiswal @ Chhedi Jaiswal Son of Late Tulsi Jaiswal Resident of Village - Kirkala, P.S.- Sonhan, District - Kaimur at Bhabhua

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agarwal Mr. Santosh Kumar Pandey
For the Informant	:	Mr. Viajy Anand
For the Respondent/s	:	Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 18-07-2019 Heard learned counsel for the appellants, learned counsel for the informant and learned Spl. PP for the State.

The aforesaid appeal has 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 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 the appellants, 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. They do not happen to be assailant. Allegation levelled against the appellants is not specific rather general and omnibus in nature. Other accused persons 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 scatterd 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 and



have been languishing in custody since 17.03.2019. Several other accused persons have been enlarged on bail by this Court.

Learned Spl. PP for the State opposing the prayer of bail submitted that besides two deceased 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 order is set aside and this appeal is allowed.

(Prakash Chandra Jaiswal, J)

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