

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3109 of 2019**

Arising Out of PS. Case No.-263 Year-2018 Thana- BUNIYAD GANJ District- Gaya

VISHAL KUMAR @ KALA @ VISHAL @ KALA Son of Pappu Mahto
Resident of Village - Sudhi Tlla, P.S.- Muffasil, Dist.- Gaya

... .. Appellant/s

Versus

1. The State of Bihar.
2. Chintu Kumar Son of Late Ram Veran Paswan Resident of Village - Rewa Tola, P.S.- Muffasil, Dist.- Gaya

... .. Respondents.

Appearance :

For the Appellant/s : Mr. S. Jamil Akhtar
For the Respondent/s : Mr. Binay Krishna

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

ORAL ORDER

2 31-07-2019 Heard learned counsel for the appellant and learned
Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer for bail vide order dated 06.05.2019 passed by learned Special Judge, SC/ST Act, Gaya in Buniyadganj P.S. Case No. 263 of 2018 registered under Sections 302/34 & 120 B of the Indian Penal Code, Section 27 of Arms Act and Section (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

While the informant, his brother Chunnu Paswan and nephew Chinku Kumar were regressing to the house from



the market on the motorcycle, on the way, eleven accused persons including the appellant surrounded them. Co-accused Chawanni assaulted on the head of his brother by means of sword resultantly his brother fell down from his motorcycle, then Tinku Singh resorted firing on his temple and he succumbed to his injury while other accused persons resorted 4-5 rounds firing in the air.

It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He was not present at the place of occurrence and was also not apprehended on the spot. No incriminating article has been recovered from conscious physical possession of the appellant. He does not happen to be assailant. Only allegation against the appellant is that of surrounding the deceased and others along with other accused persons and resorting firing in the air. The aforesaid allegation levelled against the appellant is not specific rather general and omnibus in nature. Appellant has no criminal antecedent and has been languishing in custody since 26.04.2019. Similarly situated co-accused, namely, Raja Choudhary has been enlarged on bail by this Court vide order dated 23.07.2019 passed in Cr. Appeal (SJ) No.2317 of 2019.

Learned Spl. PP for the State opposed the prayer



for bail.

In the facts and circumstances of the case, the above named appellant is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST Act, Gaya in connection with Buniyadganj P.S. Case No. 263 of 2018.

Accordingly, the impugned order is set aside and appeal is allowed.

(Prakash Chandra Jaiswal, J)

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