

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3214 of 2019**

Arising Out of PS. Case No.-119 Year-2019 Thana- DEEPNAGAR District- Nalanda

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Basant Yadav @ Basant Kumar Son of Raghunandan Prasad Resident of
Village - Rangila Bigha, P.S.- Nalanda, Distt - Nalanda.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Samir Kumar Sinha

For the Respondent/s : Mr.Sadanand Paswan

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

ORAL ORDER

6 20-11-2019 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 anticipatory bail
vide order dated 26.06.2019 passed by learned 1st Addl. Sessions
Judge, Nalanda at Biharsharif in Deepnagar P.S. Case No. 119
of 2019 registered under Section 302/34 of the Indian Penal
Code, Section 27 of the Arms Act and Section 3(i)(r)(s), 3(2)(v)
of the Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act.



Three FIR named and some unknown miscreants are said to have gunned down Bishundeo Manjhi and his son Anandi Manjhi over row of mining the sand. They had also extended threatening of dire consequence to the deceased three days preceding to the occurrence.

It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in this case due to dirty village politics. There is no eyewitness of the occurrence. Co-accused Sunil Yadav in Deepnagar P.S. Case No. 148 of 2019 has stated that he along with his associates have gunned down the aforesaid two persons. Appellant has no criminal antecedent. Co-accused, namely, Vinay Yadav has been enlarged on regular bail by this court vide order dated 25.07.2019 passed in Cr. Appeal (SJ) No. 2505 of 2019. Hence the appellant may be enlarged on bail.

Per contra, learned Spl. PP for the State vehemently opposing the bail petition submitted that the appellant along with two other named accused persons had extended threatening of dire consequence to the deceased over row of mining sand three days preceding to the occurrence and aforesaid appellant along with some miscreants have gunned down the deceased



while they were asleep. Number of witnesses in the case diary have unanimously stated that appellant along with others had extended threatening of dire consequence to the deceased preceding to the occurrence over row of mining sand. Witness in Para-15 of the case diary has stated that at the time of occurrence, she was sleeping at a bit distance from the aforesaid deceased and responding firing sound she awoke and witnessed the appellant and other accused persons there. Other witnesses have also stated that they have seen the appellant and other accused persons escaping from the place of occurrence after the occurrence. Case of the accused Vinay Yadav stands on different footing as he is not named in the F.I.R. and there is nothing on record against him indicating his complicity in the occurrence barring his confessional statement and statement of spy about roaming of the said accused along with other accused persons near the house of the deceased preceding to the occurrence. Hence the appellant does not deserve anticipatory bail.

Having regard to the facts and circumstances of the case, I am not inclined to enlarge the appellant on anticipatory bail. Prayer for bail of the appellant is rejected.

However, appellant is directed to surrender before the learned court below within six weeks from today and seek



regular bail and the learned court below shall dispose of the bail petition of the appellant in accordance with law without being prejudiced by this order.

Accordingly this appeal is dismissed.

(Prakash Chandra Jaiswal, J)

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