

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3142 of 2019

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

Shailendra Jaiswal @ Pintu Jaiswal @ Shailendra Son of Chhedi Prasad Jaiswal Resident of Village- Kir Kala, 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, Sr. Adv. Mr. Santosh Kumar Pandey, Adv.
For the Respondent/s	:	Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

2 01-08-2019 Heard learned counsel for the appellant and learned Spl. PP for the State.

The aforesaid appeal has been filed by the appellant 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 16.04.2019 passed by learned 1st Addl. Sessions Judge-cum-Special Judge, Kaimur at Bhabhua in Bhabhua (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)A/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 co-accused Chhedi Jaiswal and Binda Jiaswal, appellant along with 18 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 appellant resorted firing upon Munna Chaduhary from terrace resulting into his death. Appellant is said to have resorted firing on the head of the said victim from the terrace. Aforesaid Vijay Kharwar and Munna Chaudhary succumbed to their injuries.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in this case due to dirty village politics and animosity. Allegation levelled against the appellant is not specific rather general and omnibus in nature. Appellant is said to have resorted firing on the head of Munna Chaudhary, but doctor conducting autopsy of the cadaver of the said deceased has not found any injury on his head rather on the face, chest and abdomen. Moreover, the appellant and 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 their person. 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. Appellant has no criminal antecedent and has 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, appellant do not deserve bail.

Having regard to 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 1st Addl. Sessions Judge-cum-Special Judge, Kaimur at Bhabhua in connection with Bhabhua (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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