

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4036 of 2019**

Arising Out of PS. Case No.-218 Year-2018 Thana- HAJIPUR District- Vaishali

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VIVEK RAI @ VIVEK KUMAR @ BHAKU Son of Harendra Rai Resident
of Village - Hathsarganj, P.S.- Hajipur Town, Distt - Vaishali.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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with

CRIMINAL APPEAL (SJ) No. 3317 of 2019

Arising Out of PS. Case No.-218 Year-2018 Thana- HAJIPUR District- Vaishali

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MANISH RAI @ MANISH KUMAR RAI Son of Late Arvind Rai Resident
of Village-Hathsarganj, P.S.-Hajipur Town, District-Vaishali.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

(In CRIMINAL APPEAL (SJ) No. 4036 of 2019)

For the Appellant/s : Mr. Umesh Chandra Verma

For the Respondent/s : Mr. Binay Krishna

(In CRIMINAL APPEAL (SJ) No. 3317 of 2019)

For the Appellant/s : Mr. Umesh Chandra Verma

For the Respondent/s : Mr. Usha Kumari 1

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

ORAL ORDER

2 26-09-2019 As both the criminal appeals have cropped up from

the same P.S. Case, hence aforesaid two appeals are being heard

together and disposed of by this common order.

Heard learned counsel for the appellants and learned

Special Public Prosecutor for the State.

Aforesaid appeals are under Section 14(A)(2) of the



Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 16.08.2019 and 21.05.2019 passed by learned 1st Additional Sessions Judge cum Special Judge SC/ST Act, Vaishali at Hajipur in connection with Hajipur Town P.S. Case No. 218 of 2018 registered under Sections 302, 353, 224 & 120 B/34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

While taking under trial prisoner Prince Kumar to hazat after his production before Juvenile Justice Board, three unknown miscreants tried to extricate him from police custody. In the meantime, said Prince Kumar taking pistol from one of the miscreants resorted firing upon Hawaldar Ramekbal Ravidas, then all the accused persons made good their escape. Said Hawaldar was rushed to hospital but he was declared brought dead by the doctor.

It is submitted by learned counsel for the appellants that the appellants have been falsely implicated in the case. There is nothing cogent on record indicating the complicity of the appellants in the occurrence barring the



confessional statement of co-accused Amit Kumar which has no evidentiary value in the eye of law. Appellants do not happen to be assailant. As per the prosecution case itself, it is the Prince Kumar who resorted firing upon the deceased which proved fatal. Appellants Vivek Rai and Manish Rai have been languishing in custody since 26.04.2019 & 13.12.2018 respectively. Similarly situated co-accused namely Sujeet Kumar @ Bhuila and Rakesh Paswan @ Rakesh Kumar have been enlarged on bail by a coordinate Bench of this Court vide order dated 26.11.2018 & 07.12.2018 passed in Cr. Appeal (SJ) Nos. 3260 of 2018 & 4073 of 2018 respectively while co-accused Sujeet Kumar @ Thapachi has been enlarged on bail by this Court vide order dated 06.09.2019 passed in Cr. Appeal (SJ) No. 3148 of 2019.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the above named appellants are directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge cum Special Judge, SC/ST (POA) Act, Vaishali at Hajipur in connection with



Hajipur Town P.S. Case No. 218 of 2018.

Accordingly, aforesaid appeals are allowed.

(Prakash Chandra Jaiswal, J)

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