

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4101 of 2019**

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

Deo Kumar Sah @ Deo Kumar Jaiswal @ Deo Kumar S/o Gauri Sah
Resident of Village- Odar, P.S.- Sonhan, District- Kaimur at Bhabhua.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agrawal, Sr. Adv. Mr. Santosh Kumar Pandey
For the Respondent/s	:	Mrs. Usha Kumari 1

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

ORAL ORDER

3 21-10-2019 Heard learned counsel for the appellant 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 anticipatory bail vide order dated 26.08.2019 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 Jaiswal, appellant along with 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. 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 upon Vijay Kharwar and Munna Chaudhary along with other accused persons 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. Appellant is said to have resorted firing by means of his licencee gun but, his licencee gun



has been deposited in the P.S. Sonhan few years back to the occurrence, and moreover, tower location of the mobile of the appellant was not found at the place of occurrence rather in his village. Several other accused persons have been enlarged on bail by this Court.

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

In the facts and circumstances of the case, let the above named appellant be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Addl. Sessions Judge-cum-Special Judge, Kaimur at Bhabhua in Bhabua (Sonhan) P.S. Case No. 146 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Prakash Chandra Jaiswal, J)

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