

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2815 of 2021**

Arising Out of PS. Case No.-57 Year-2020 Thana- KARAMCHAT District- Kaimur (Bhabua)

BIKASH KURMI @ BIKASH CHOUDHARY S/o Sri Bijendra Kurmi @
Bijendra Choudhary R/o village- Sabar, P.S.- Karamchat, Distt.- Kaimur at
Bhabua

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dharmendra Kumar Singh

For the Informant : Mr. Ashok Kumar Garg

For the Respondent/s : Mr.Sadanand Paswan, APP

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

3 27-07-2021 This matter is taken up for consideration through

Video Conferencing under the orders of Hon'ble the Chief

Justice.

IA No. 1 of 2021

Interlocutory application No. 1 of 2021 has been filed
on behalf of appellant for condonation of delay of 96 days in
preferring the instant appeal.

In view of the reasons assigned, IA No. 1 of 2021 is
allowed.

Heard learned counsel for the appellant, counsel for
the informant and the State.

The present memo of appeal has been filed on behalf
of the appellant for grant of bail against the order dated
18.12.2020 passed by learned Additional District and Sessions



Judge I-cum-Special Judge, Kaimur at Bhabua in connection with Karamchat P.S. Case No. 57 of 2020 under Sections 302, 406, 420, 120(B) of the Indian Penal Code, section 27 of the Arms Act and section 3(1)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for bail of the appellant was rejected.

Prosecution case in brief is that on 19.10.2020 at about 8.30 am, this appellant and co-accused Dhanu Yadav came to the house of informant and called her son Deepak Paswan and took him to the market. After sometime, brother-in-law of the informant informed her that appellant along with other co-accused have shot Deepak Paswan and have kept dead body of the victim at the door of co-accused Rajesh Singh.

It is submitted on behalf of the appellant that appellant has been made accused in this case only on suspicion and at best it is a case of last seen, as the appellant being last seen with the deceased and informant is not the eye-witness of the occurrence. There is no circumstantial evidence which suggest the complicity of appellant in the aforesaid occurrence. Furthermore, as per the FIR, the deceased died on account of gun-shot injury, but the postmortem report suggest that the death has been caused due to stab injury. No case under SC/ST Act is



made out, as there is no specific allegation against this appellant of abusing the informant by calling her caste name. Moreover, co-accused Rajesh Singh has already been granted bail by this Court vide order dated 26.03.2021 passed in Cr. APP(SJ) NO. 1325 of 2021. Appellant has got clean antecedent and is in custody since 11.11.2020.

Mr. Ashok Kumar Garg, counsel for the informant vehemently opposed the prayer for bail and submitted that appeal is not maintainable in view of the fact that appeal has been preferred after limitation period and the appellant has also played active role in murder of the deceased.

Considering the rival submissions, this appeal is allowed. The impugned order dated 18.12.2020 passed by learned Additional District and Sessions Judge I-cum-Special Judge, Kaimur at Bhabua in connection with Karamchat P.S. Case No. 57 of 2020 is set aside.

Let the appellant above-named, be released 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 learned Additional District and Sessions Judge I-cum-Special Judge, Kaimur at Bhabua in connection with Karamchat P.S. Case No. 57 of 2020, subject to following conditions:-

(i) The appellant shall co-operate in the trial and shall be



properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(ii) If the appellant tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the appellant.

(Prabhat Kumar Singh, J)

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