

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1431 of 2022

Arising Out of PS. Case No.-580 Year-2021 Thana- HAJIPUR SADAR District- Vaishali

SHASHIKANT TIWARI Son of Vishwanath Tiwari Resident of Village-
Minapur Rai, P.S.- Sadar, District- Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar
2. Shailendra Kumar S/o Late Brahmdev Paswan Resident of Village- Rani Sarai, P.s.- Bakhtiyarpur, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Abhishek Kumar
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 21-12-2022 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

Notice was validly served upon the respondent no.2
but nobody appeared on his behalf.

Learned counsel for the appellant undertakes to
remove the defects within four weeks.

This is an appeal 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 of anticipatory bail
vide order dated 14.09.2021 passed by learned 1st Additional
Sessions Judge cum Special Judge, SC/ST (POA) Act, Vaishali



at Hajipur in connection with Hajipur Sadar P.S. Case No. 580/2021 registered under Sections 406, 420, 540 and 34 of the Indian Penal Code and Section 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Allegation against the appellant is that on 29.01.2018, the appellant Shashikant Tiwari took up Rs. 13,90,000/- from the informant to get postman's job and give forged appointment letter to the informant.

It is submitted by learned counsel for the appellant that the appellant have no concern with the aforesaid occurrence. The occurrence took place on 29.01.2018 and F.I.R. lodged on 22.06.2021 after a delay of more than three years. There is no explanation for the delay of the F.I.R. which creates serious doubt about the prosecution case. There is no allegation of slating the informant in the specific name of his caste. Hence, no offence under Section SC/ST Act is made out against the appellant. There is specific overt act against the co-accused Vishwanath Tiwari to abuse the informant by taking his caste name. In the F.I.R. it is stated that the informant has recorded all the conversation but when the police demanded the said he did not produced before the police which is mentioned in para-42 of the case diary. Appellant has no criminal antecedent as



mentioned in para-3 of memo of appeal.

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

In the facts and circumstances of the case, the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge cum Special Judge, SC/ST (POA) Act, Vaishali at Hajipur in connection with Hajipur Sadar P.S. Case No. 580/2021, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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