

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1789 of 2022

Arising Out of PS. Case No.-342 Year-2021 Thana- FATEHPUR District- Gaya

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UPENDRA PASWAN S/o Kuleshwar Paswan Resident of Village-
Raghunathpur, P.S.- Fatehpur, District- Gaya.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Vikash Kumar Son of Suresh Paswan Village-Raghunathpur,P.S-
Fatehpur,District-Gaya

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rama Kant Singh

For the Respondent/s : Mr. Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR

ORAL ORDER

4 23-11-2022 Heard Ld. counsel for the appellant and Ld.

Special Public Prosecutor for the State.

This criminal appeal has been filed for enlargement
of the appellant on bail, impugning the order dated
20.04.2022, passed by the Ld. Exclusive Special Judge,
SC/ST (POA) Act, Gaya, in connection with Fatehpur P.S. Case
No. 342 of 2021, whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is



that the accused-appellant along with other co-accused caused the death of the deceased by firm-arm.

The learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that as per allegation 3 persons including the appellant fired at him, however, as per the post-mortem report there is only one fire arm wound. He also submits that deceased is notorious criminal having been 4 criminal antecedents. He, therefore, submits that someone may have killed him but not the appellant. He further submits that appellant has been languishing in jail since 17.03.2022 i.e. for about 8 months. He further submits that SC/ST Act does not apply against the appellant because he himself to the SC/ST Community.

It is also stated in paragraph no. 2 of the petition that the appellant has not moved earlier before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the appellant has no criminal antecedent.

However, the Ld. Special Public Prosecutor for the



State and Ld. Counsel for the informant vehemently opposes the prayer of the appellant for bail saying that the alleged offence is serious in nature and there is direct allegation against the appellant to fire at him causing injury resulting into death of the victim. He further submits that the post-mortem report corroborates the allegation of firm-arm injury though only one wound has been found caused by firm arm as per the post-mortem report. He also submits that injury found on the dead body of the deceased was ante-mortem, dangerous and grievous in nature and death has been caused on account of firm-arm injury.

Considering the facts and circumstances particularly the nature of the alleged offence as well as post-mortem report, I am not persuaded to appellant enlarged on bail.

The appeal stands rejected accordingly.

The learned counsel for the appellant is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of



office objections.

(Jitendra Kumar, J)

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