

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1835 of 2022

Arising Out of PS. Case No.-95 Year-2021 Thana- DELHA District- Gaya

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Shashi Kumar Sharma @ Rohit Kumar @ Manohar @ Shashi Kumar @
Manohar Sharma Son Of Saryu Prasad Singh Resident Of Mohalla - New
Colony, Bhaluahi, Kharkhura, P.S.- Delha, District - Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Biktar Murmu Son of I. Joseph Murmu Resident of Kharkhura Railway
Colony, P.S.- Delha, District - Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ravi Bhardwaj, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 08-12-2022 Despite valid service of notice upon respondent no. 2,
the informant did not appear before this Court.

Learned counsel for the appellant is directed to
remove the defects, as pointed out by the office, within a period
of four weeks from today.

Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

This is an appeal under Sections 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, against refusal of the prayer for anticipatory bail
by order dated 19.04.2022 in A.B.P. No. 54 of 2022 passed by
the learned Exclusive Special Judge, SC/ST, Gaya in connection



with Delha P.S. Case No. 95 of 2021 registered under Sections 307/34 of the Indian Penal Code and Sections 3(1) (s) (r), 3(2) (va) of the SC/ST Act.

As per prosecution case, in brief, is that the accused persons including the appellant abuse the informant with caste name and when the informant was returning from his duty and reached a new colony in Kharkhura then the accused persons namely Santosh Sharma and Harinath Kumar and others fired upon him and in that firing he got one bullet in the leg.

Learned counsel for the appellant submits that the appellant is innocent and he has been falsely implicated in the present case. He further submits that it appears from the F.I.R. that there is general and omnibus allegation against all the accused persons including the appellant and there is no specific allegation of overt act or assault or firing against the appellant. As far as SC/ST Act is concerned, it appears from the F.I.R. that there is no case made out against the appellant under the SC/ST Act.

Learned Special Public Prosecutor for the State, on the other hand, has vehemently opposed the prayer for anticipatory bail of the appellant and submits that there is no specific allegation of firing against the appellant and also the



appellant carries five more cases other than the present one.

After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Scheduled Casts and Scheduled Tribes Act is made out.

Hence, let the appellant, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with Delha P.S. Case No. 95 of 2021, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure along with other following conditions :-

(1) 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 on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

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

(3) And, further condition that the court below shall



verify the criminal antecedent of the appellant and in case at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

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

(Rajesh Kumar Verma, J)

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