

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2075 of 2022**

Arising Out of PS. Case No.-553 Year-2021 Thana- BIDUPUR District- Vaishali

VIKASH KUMAR @ VIKASH SHARMA Son of Radhe Sharma Resident of
Village - Panapur, Dilawarpur, Govardhan, Distt.- Bidupur, Distt.- Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sushma Devi W/o Late Rana Sharma Resident of Village - Panapur,
Dilawarpur govardhan, P.S.- Bdupur, Distt.- Vaishali (Bihar)

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binoy Kumar Sinha, Advocate.
For the Respondent/s : Mr. Sadanand Paswan, Spl.PP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 01-09-2022 Learned counsel for the Appellant is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Binoy Kumar Sinha, learned counsel for
the Appellant as well as learned Special Public Prosecutor for
the State.

This is an appeal under Section 14 A (2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST
Act”) against the refusal of prayer for bail vide order dated
23.05.2022 passed by the learned Special Judge SC/ST, Hajipur
Vaishali in connection with Bidupur P.S. Case No. 553 of 2021



registered for the offences punishable under Sections 341, 323, 379, 307, 504, 506, 447 read with 34 of the Indian Penal Code later on Section 302 of the Indian Penal Code was added, Section 27 of the Arms Act and Sections 3(i)(r)(s), 2(va) of the SC/ST (Prevention of Atrocities) Act.

As per the prosecution case, it is alleged that on 10.11.2021 at about 10:45 P.M. all the F.I.R. named accused persons came at the house of the respondent no. 2 and started abusing them and when it was protested by the uncle of the respondent no. 2, the accused persons started assaulting him and when the respondent no. 2 came to rescue him co-accused Kunal Kumar ordered to kill thereupon, co-accused Raju Singh fired upon him causing bullet injury in his stomach. It is further alleged that the appellant Vikash Kumar @ Vikash Sharma has snatched a golden chain from the neck of the respondent no. 2.

Learned counsel appearing on behalf of the Appellant submitted that as per the F.I.R., the specific allegation of firing has been attributed against co-accused Raju Singh on the dictate of Kunal Kumar. So far the appellant is concerned, there is allegation that while all the accused persons were fleeing away, he snatched his golden chain from his neck. It is next submitted that both the parties are own agnates and only



because of previous animosity the name of the appellant has also been implicated in this case by making exaggerated allegation. It is further submitted that neither any incriminating material has been recovered from the person or possession of the appellant nor allegation of any overt act. It is last submitted that the appellant is in custody since 23.04.2022 and moreover, the appellant and the respondent no. 2 belong to the same caste, there is no requirement of issuance of notice,

On the other hand, learned Special Public Prosecutor for the State opposes the bail application and submits that the appellant is named in two other criminal cases and there is specific allegation of snatching of golden chain from the neck of the respondent no. 2.

Having considered the submissions made on behalf of the parties and taking into account the nature of allegation as also the fact that the appellant is on bail in both the cases apart from the fact that the parties are agnates and there is no specific allegation of over act, let the appellant, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge SC/ST, Hajipur Vaishali in connection with Bidupur P. S. Case No. 553 of 2021,



subject to the condition that one of the bailors will be the close relative of the appellant with further conditions which are as follows:-

- (i) The appellant will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) 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 cancelling 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.



In view of the aforesaid fact, the impugned order dated 23.05.2022 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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