

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3757 of 2021

Arising Out of PS. Case No.-23 Year-2000 Thana- DEOKUND District- Aurangabad

VINOD KUMAR @ VINOD SHARMA @ BINOD SHARMA, Son of
Nagendra Kumar Sharma @ Nagendra Sharma Resident of Village - Senari,
P.S.- Karpi, Distt.- Arwal.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ravindra Kumar

For the Respondent/s : Ms. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 12-01-2022 Heard Mr. Ravindra Kumar, learned Advocate

for the appellant and Ms. Usha Kumar, learned Special

Public Prosecutor for SC-ST cases.

The appellant has renewed his prayer for grant

of bail during the pendency of the Sessions Trial No. 157

of 2017, arising out of Deokund (Uphara) P. S. Case No.

23 of 2000 for offences under sections 147, 148, 149,

341, 307, 302 and 120(B) of the Indian Penal Code;

Sections 27 of the Arms Act, 1959; Section 17 of the

Criminal Law Amendment Act; Section 3(II)(V) of the

Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act, 1989; and Section 3 and 4 of the Explosive Substances Act, 1908.

30 persons are said to have been killed in a carnage in which 21 persons were named in the FIR including the appellant.

It is the contention of the appellant that his parentage was not verified and he had no idea about his having been made accused in this case and this was precisely the reason for his not having surrendered to the process of law along with other accused persons. The trial of the appellant, therefore, was delayed.

Nonetheless, he is in custody since 02.07.2016.

Mr. Ravindra Kumar has further argued that in the trial, out of 25 charge-sheet witnesses, only five have been examined up till now. The report from the Trial Court confirms the afore-noted statement.

He has further submitted that almost all the accused persons of this case are out of jail. Some of them have been acquitted also. Those who have also



been convicted have been granted bail in appeal. The appellant is the only one in custody facing trial in the aforesaid case. The learned counsel for the appellant has further submitted that he was a LIC agent, residing at Patna with his family but has been made accused in this case on the presumption that he may have participated in the carnage because he hails from a village where earlier a massacre had taken place.

The learned for the appellant, therefore, submits that such presumption has no basis in the eyes of law. It has further been argued that the five prosecution witness who have been examined up till now have not supported the prosecution case vis-a-vis the appellant.

Considering the afore-noted submissions, this Court is of the view that no useful purpose would be served in keeping the appellant in custody till the disposal of the trial.

The order dated 15.07.2021 passed by the



Trial Court rejecting the prayer for release of the appellant on bail during the pendency of the trial is set aside.

The appeal is allowed.

The appellant, above-named, is directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional District and Sessions Judge, Aurangabad in connection with Sessions Trial No. 157 of 2017, arising out of Deokund (Uphara) P. S. Case No. 23 of 2000.

At the time of furnishing of the bail bonds, the Trial Court shall require the appellant to furnish an additional affidavit disclosing the mobile telephone no. which he shall keep in operative condition at all times till the trial is concluded. He would also, in such affidavit, give an undertaking that he shall be getting his presence marked fortnightly before the Officer In Charge of the concerned Police Station who is further directed not to



unnecessarily detain the appellant and would endorse his presence in the Police Station promptly on the day he visits him. Before leaving the territorial confines of the State of Bihar, the appellant shall be required to obtain prior permission from the Trial Court. The absence of the appellant from the trial proceedings on two consecutive dates would render the bail granted to the appellant liable to be cancelled. Such conditions shall remain attached with this order till final conclusion of the trial.

The trial court is also directed to conclude the trial as early as possible as lot of time has already elapsed.

The appeal stands disposed off accordingly.

(Ashutosh Kumar, J)

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