

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3885 of 2021**

Arising Out of PS. Case No.-14 Year-2021 Thana- SC/ST District- Kaimur (Bhabua)

DEVENDRA DUBEY @ TRIBHUWAN DUBEY S/o RAM NAGINA
DUBEY R/o VILLAGE-DUBAULI, P.S-BELON, DISTRICT-KAIMUR
(BHABHUA).

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Gudiya Devi Munib Paswan Village-Dubauli,P.S-Below,District-Kaimur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Arabind Nath Pandey
For the Respondent/s : Mr.Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

- 3 31-03-2022 Heard learned counsel for the appellant and learned Special Public Prosecutor for the State. Though vakalatnama on behalf of the respondent no.2 has been filed in this case but nobody appears in the Court today to argue the case, as such, the appeal is being heard in absence of the counsel for the respondent no.2.

This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes Act (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 26.08.2021, passed by learned Additional District & Sessions Judge -I-cum- Special Judge, Kaimur at Bhabhua, in connection with SC/ST Bhabhua P.S. Case No.14 of 2021,



registered under sections 341, 323, 354(B), 504/34 of the IPC, sections 3(i)(r)(s)(w), 3(2)(va) of the SC/ST Act and section 27 of the Arms Act.

Allegedly, the appellant abused and misbehaved with the informant and when her husband came there, then the son of the appellant abused her husband. It is further alleged that in course of the hot exchange between the parties, the appellant opened fire upon the husband of the informant but the same hit by chance to her son in his right hand.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in the case due to ulterior motive. The occurrence took place on 20.6.2021 but the FIR was lodged on 26.06.2021, as such, there is an unexplained delay of six days in lodging the present case which creates serious doubt about the prosecution case. It is further submitted that the accusation under the SC/ST Act appears to be totally unwarranted. The allegation levelled against the appellant is not specific rather general and omnibus in nature. Similarly situated co-accused has been granted anticipatory bail vide Cr. Appeal (SJ) No.3886 of 2021 on 08.10.2021 by a co-ordinate Bench of this Court. The appellant has no criminal antecedent and has been



languishing in custody since 28.06.2021.

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

In the facts and circumstance of the case, since similarly situated co-accused has been granted bail, the above named appellant is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge -I-cum- Special Judge, Kaimur at Bhabhua, in connection with SC/ST Bhabhua P.S. Case No.14 of 2021.

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

(Anjani Kumar Sharan, J)

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