

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1909 of 2023

Arising Out of PS. Case No.-133 Year-2020 Thana- JANKINAGAR District- Purnia

Bishambhar Jha @ Buchhi Jha Son Of Late Arjun Jha Resident Of Ashok
Nagar, Post Office - Naulakhi, Police Station - Jankinagar, District - Purnea

... .. Appellant/s

Versus

1. The State Of Bihar
2. Paro Devi Wife Of Late Subodh Risideo Triwedi Resident Of Village -
Thakur Patti, Ward No. 04, Police Station - Jankinagar, District - Purnea

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Chittranjan Sinha, Sr. Adv. Mr. Sanjeet Kumar, Adv.
For the Respondent/s	:	Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 23-08-2023 Heard learned Senior Counsel for the appellant and
learned Special Public Prosecutor for the State.

2. Learned Spl. PP for the State, in compliance of
order dated 05.07.2023, informed the informant/complainant.
Nobody appeared on behalf of the informant/complainant.

3. This is an appeal under Section 14 A (2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
SC/ST Act), against the refusal of prayer of anticipatory bail
vide order dated 02.03.2023 passed by learned Special Judge
(SC/ST) Act, Purnea, in connection with Jankinagar P.S. Case
No. 133 of 2020 registered under Sections 452, 147, 148, 149,



341, 323, 324, 325, 302, 307, 504, 506 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

4. As per the prosecution case, the appellant along with other co-accused persons is said to have killed the husband of the informant.

5. Learned Senior Counsel for the appellant submits that the appellant has not concern with the aforesaid occurrence. There is no allegation of slating the informant in the specific name of his caste hence, no offence under Section SC/ST Act is made out against the appellant. He submits that in the F.I.R., it has been alleged that appellant along with his three sons fired upon deceased, but in the para 11 of the case diary, re-statement of the informant taken by the police, informant has not taken the name of the appellant, but the final form has been submitted by police only against Sonu Jha, one of the son of appellant for the reason that on investigation the police did not found his complicity. He submits that there is no specific overt act against the appellant. He further submits that the informant has given her statement under Section 164 of Cr.P.C., in which she has not stated that the appellant has fired upon the deceased. He further



submits that there is an admitted land dispute between the parties and the raiyati land of the appellant has been encroached by the informant's side. He further relies upon the judgment of Hon'ble Apex Court in the case of *Hitesh Verma vs. State of Uttarakhand* reported in (2020) 10 SCC 710. Appellant has got no antecedent as mentioned in para-3 of memo of the appeal.

6. Learned Spl. PP for the State opposes payer for bail and submits that the appellant is also involved in the present case. Hence, he does not deserve privilege of anticipatory bail.

7. Considering the facts and circumstances of the case, arguments of the parties and there is no specific overt act against the appellant and appellant is 73 years old, let the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (SC/ST) Act, Purnea, in connection with Jankinagar P.S. Case No. 133 of 2020, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

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



9. The appellant is directed to cooperate in the trial and if, the appellant does not appear on two consequent date of trial, then the anticipatory bail of the appellant shall be cancelled by the learned Court below itself.

(Anjani Kumar Sharan, J)

anand/-

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