

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2403 of 2022

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

KUNAL KUMAR S/o Late Diwakar Singh R/o village- Dilawarpur
Goverdhan, P.S.- Bidupur, District- Vaishali

... .. Appellant/s

Versus

1. The State of Bihar
2. VIVEK KUMAR S/o Late Rana Sharma R/o village- Pananpur Dilawarpur,
P.S.- Bidupur, District- Vaishali

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ansul, Adv. Mr. Anuj Kumar
For the Respondent No-1:		Mr. Binay Krishna
For the Respondent No-2:		Mr. Manish Chandra Gandhi

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 11-01-2023 Heard Ld. counsel for the appellant, Ld. Special

Public Prosecutor for the State and Ld. Counsel for the

Informant/Respondent No-2.

This criminal appeal has been filed to enlarge the
appellant on bail, impugning the order dated 06.05.2022,
passed by Ld. Special Judge SC/ST Vaishali at Hajipur,
arising out of Bidupur P.S. Case No. 553 of 2021 registered
for the offences punishable under Sections 341, 323, 379,
307, 504, 506, 447 and 34 of the Indian Penal Code,
Section 27 of the Arms Act and Sections 3(1)(r)(s), 2(va) of
the SC/ST Act, and later on Section 302 of the Indian Penal



Code was also subsequently added, whereby bail has been denied to the appellant.

The prosecution case as emerging from the FIR is that on 10.11.2021 at about 10:45 P.M. all the accused persons came at the house of the informant, started abusing him by taking his caste name and also assaulted his uncle, namely, Chnadrawali Sharma and when the informant came to save his uncle, co-accused Raju Singh, at the instance of the accused-petitioner, fired at the informant, resulting into his death.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that the only allegation against the appellant is that the present appellant is only the order giver and he is not the person who assaulted or fired at deceased and allegation has been made in the backdrop of the election dispute.

He further submits that the appellant has been languishing in jail since 16.01.2022.

It has also been stated in paragraph no. 3 of the



appeal that the appellant has earlier been made accused in six other cases.

It is also stated in paragraph no. 2 of the appeal that the appellant appellant has not moved this Court earlier either for anticipatory bail or regular one.

However, Ld. Special Public Prosecutor for the State and Ld. Counsel for the Informant/Respondent No-2 vehemently opposes the prayer of the appellant for bail that the victim has been shot at by the accused Raju Singh at the instance of present accused-appellant, namely, Kunal Kumar and subsequently the victim has died in course of treatment due to firearm injury.

Considering the aforesaid facts and circumstances, particularly the fact that victim has died on account of firearm injury at the instance of appellant, I am not persuaded to enlarge the appellant on bail at this stage. As such, there is no infirmities in the impugned order.

This appeal is accordingly dismissed.

Ld. counsel for the appellant is directed to remove all the defects, if any, pointed out by the office within a



period of one month and the Registry is directed to issue the
certified copy of this order only after removal of office
objections.

(Jitendra Kumar, J)

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