

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3785 of 2022

Arising Out of PS. Case No.-284 Year-2021 Thana- RAJAOLI District- Nawada

Vikash Kumar Son Of Krishnadeo Singh R/O Gariba, P.S.- Rajauli, District- Nawada

... .. Appellant/s

Versus

1. The State of Bihar
2. Babita Devi Wife Of Late Ram Jatan Ram R/O Village- Gariba, P.S.- Rajauli, District- Nawada

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Amresh Kumar Sinha
For the Respondent/s	:	Mr. Sadanand Paswan
For the Respondent No-2:	:	Mr. Navin Sharma

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 02-03-2023 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 17.08.2022, passed by Ld. Exclusive Special Court, SC/ST, Nawada in connection with B.P. No. 4214 of 2022 arising out of Rajauli P.S. Case No. 284 of 2021, registered for the offences punishable under Sections 302 and 120(B) of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(ii)(v) of the SC/ST Act, whereby bail has been denied to the



appellant.

The prosecution case as emerging from the FIR is that on 11.06.2021 at about 08:30 A.M. when the informant was going with his husband for check-up by Doctor, the accused-appellant and his associates came and started firing on the informant and her husband hitting the chest of the victim due to which he died.

Ld. counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that another FIR bearing Rajauli P.S. Case No. 285 of 2021 was also lodged for alleged killing of the person by the motorcyclist and in that FIR the present accused-appellant is not named as FIR accused and the time of alleged occurrence in the said FIR is given as 08:50 A.M. He also submits that the informant of the present case who is claiming to be eye witness is not an eye witness in view of the timing given in the another FIR lodged for the same occurrence because the timing as per the present FIR has been given as 08:45 A.M. As such there is difference of 05 minutes regarding the time of occurrence.



He also submits that another FIR Rajauli P.S. Case No. 286 of 2021 has also been lodged in regard to the incident as per which one person has been killed and two motorcyclist are fleeing away after killing him. He further submits that investigation in this case is complete and charge-sheet has already been submitted.

He further submits that the appellant has been languishing in jail since 01.08.2022.

It has also been stated in paragraph no. 3 of the appeal that the appellant has no criminal antecedents.

It is also stated in paragraph no. 2 of the appeal that the appellant has moved this Court earlier for anticipatory bail vide Cr. Appeal (SJ) No. 3411 of 2021.

However, Ld. Special Public Prosecutor for the State and Ld. counsel for the Informant vehemently oppose the prayer of the appellant for bail submitting that as per the FIR the wife of the deceased who is informant was going along with her husband on a motorcycle and she is an eye witness to the alleged occurrence and as per the alleged FIR the present accused-appellant is the main assailant who has



allegedly caused death of victim and injury to victim is also supported by the post-mortem report as per which the victim has died on account of firearm injury and Police after investigation also found case true and filed charge-sheet. The difference of timing as per two FIRs is insignificant.

Considering the aforesaid facts and circumstances, particularly the fact that the present accused-appellant is the main assailant and allegation being supported by the post-mortem report as well as other material on record, 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.

However, Ld. Trial Court is directed to expedite the trial. In case, the trial is not concluded within a period of one year, the appellant is at liberty to renew his prayer for bail.

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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