

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.149 of 2022**

Arising Out of PS. Case No.-83 Year-2021 Thana- BABUBARHI District- Madhubani

PHULO DEVI WIFE OF LATE UPENDRA SHARMA R/O VILLAGE-
GHANGHAUR, P.S.- BABUBARHI, DISTRICT- MADHUBANI

... .. Appellant/s

Versus

1. The State of Bihar
2. UCHIT MANDAL SON OF LATE SUBHAD MANDL R/O VILLAGE-
GHANGHAUR, P.S.- BABUBARHI, DISTRICT- MADHUBANI

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sanjay Kumar Jha, Advocate
For the Respondent/s	:	Ms. Usha Kumari No.1, Special P.P.
For the Informant	:	Mr. Subhash Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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| 3 | 28-09-2022 | <ol style="list-style-type: none">1. Heard learned counsel for the appellant and learned Special P.P. for the State as well as learned counsel for the respondent no.2/informant, on point of admission and on merit also.2. The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the Act”) against the refusal of prayer for bail vide order dated 21.10.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani in connection with Babubarhi P.S. Case No. 83 of 2021 registered under Sections 302 and 34 of Indian |
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Penal Code and Section 3(i)(r), 3(2)(Va) of SC/ST Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.
4. Notice has been issued to Respondent no.2, served upon and duly represented.
5. The appellant is named in F.I.R. and is in custody since 23.07.2021.
6. The allegation against the appellant is to commit murder of the son of informant.
7. Learned counsel for the appellant submitted that the appellant is innocent and has been falsely implicated in the present case, due to local disputes and differences. It is submitted that informant is not the eye-witness of the occurrence, where, maximum allegation against this appellant is of 'last seen'. It is also submitted that appellant is a lady of clean antecedent and moreover, similarly situated co-accused, namely, Kumal Thakur @ Kumaldeo Thakur has already been granted bail by one of the learned co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 3814 of 2021 dated 10.01.2022. It is also submitted that FIR on its face not suggesting that act of appellant is within the meaning of atrocities, as defined



under Act. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in *State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276*.

9. Learned Special P.P. for the State duly assisted by learned counsel for the Respondent No.2/Informant, while opposing prayer for bail, fairly conceded the fact that the informant is not the eye-witness of the present occurrence.

10. In view of the submissions, as made above, as the informant is not the eye-witness of the present occurrence, where, maximum allegation against this appellant is of 'last seen', let the appellant, above named, is directed to be released on bail in connection with Babubarhi P.S. Case No. 83 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of



learned 1st Additional Sessions Judge-cum-Special Judge,
Madhubani/concerned court, subject to the conditions as
mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 21.10.2021 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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