

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.260 of 2022**

Arising Out of PS. Case No.-89 Year-2021 Thana- UDWANTNAGAR District- Bhojpur

BHAROSA SAH Son of Late Bhagat Sah Resident of Village - Bhalai, P.S.-
Udawanagar, Distt.- Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Nibha Devi W/o Late Sonu Paswan Resident of Village - Bholai, P.S.-
Udwant Nagar, Distt.- Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Malti Kumari, Advocate

For the Respondent/s : Ms. Usha Kumari 1, Special P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

- 3 18-08-2022 1. Heard learned counsel for the appellant and learned
Special P.P. for the State, 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 “SC/ST Act”) against the
refusal of prayer for bail vide order dated 25.06.2021
passed by the learned 1st Additional Sessions Judge,
Bhojpur, Ara in connection with Udwant Nagar P.S. Case
No. 89 of 2021 registered under Sections 302, 201 and 34
of Indian Penal Code and Section 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, but failed to appear.
5. The appellant is named in F.I.R. and is in custody since 01.03.2021.
6. The allegation against the appellant is to commit murder of the husband of informant along with other co-accused persons in the background of previous long standing land disputes.
7. Learned counsel for the appellant submitted that, admittedly, informant is not the eye-witness of the occurrence. It is also submitted that if the version of informant be accepted to be true as set out in the FIR, suggesting thereof that deceased was present with co-accused, namely, Akhilesh Yadav, soon before his murder, when informant heard his voice over telephone and as such, it is not even a case of “last seen” with the present appellant. It is also submitted that nothing surfaced during course of investigation, which may incriminate or connect the appellant with the present set of occurrence. It has further been submitted that similarly situated co-accused person has already been granted bail by one of the learned



co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 3008 of 2021 dated 06.09.2021. It has further been submitted that from bare perusal of FIR, it appears that there is no overt act against the appellant, which attracts atrocities within the meaning of the Act. It has further been submitted that appellant is a man of clean antecedent. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has already been submitted in this case, 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, while opposing prayer for bail, fairly conceded the fact that as per FIR, it appears that deceased was on last occasion with co-accused, namely, Akhilesh Kumar.
10. In view of the submissions, as made above, as no incriminating circumstances surfaced during course of the



investigation, which may connect this petitioner, *prima-facie*, for further detention as under trial prisoner, who is a man of clean antecedent, let the appellant, above named, is directed to be released on bail in connection with Udwant Nagar P.S. Case No. 89 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, Bhojpur, Ara/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 25.06.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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