

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.666 of 2022

Arising Out of PS. Case No.-70 Year-2021 Thana- MIRGANJ District- Purnia

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Santosh Yadav @ Santosh Kumar Yadav S/o- Late Radhe Yadav @ Radhe Prasad Singh Resident of Village - Gharari, P.S. - Mirganj, District - Purnea, State - Bihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Gaurav Baski Son of - Late Munshi Baski Resident of Village - Ganga Sagar, P.S. - Jalalgarh, District - Purnea.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mrs. Preety Kunwar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 01-12-2022 1. Heard learned counsel for the appellant, learned Special P.P. for the State and learned counsel for the 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 (for short 'the Act') against the order dated 13.01.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, Purnea in connection with Mirganj P.S. Case No. 70 of 2021 registered under Sections 341, 323,302 of the IPC and Sections 3 (2)(V) of the Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. It is submitted by learned Counsel appearing on behalf



of the appellant that notice was given to the informant in terms of vide order dated 28.07.2022 about the current Court proceeding, but informant failed to join current Court proceeding.

5. Appellant is not named in F.I.R. and is in custody since 07.12.2021.

6. The allegation against the appellant is to commit murder of sister of informant due to dispute and differences arises from money transaction, where a cash loan was given to appellant by deceased, after withdrawing the same from Bandhan Bank.

7. Learned counsel, N.K. Agarwal, for the appellant submitted that informant is not the eye witness of the occurrence, where whole allegation is merely based upon suspicion as Rs. 30,000/- was advanced as a loan by deceased to this appellant. It is further submitted that the maximum allegation against this appellant was surfaced during the course of investigation is of 'last seen' and on this score only, appellant cannot be implicated in this case, where nothing surfaced during the course of investigation, which may connect this appellant, *prima facie*, with present set of occurrence. It is also submitted that the cause of death is yet to be ascertained, as per postmortem report. It is also submitted that from the face of F.I.R., it cannot be gathered that an act of appellant was atrocities within the meaning of Act. While concluding the argument, it is submitted that investigation of this case has been completed, for



which charge-sheet has 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. opposed the prayer of bail.

10. In view of the facts and circumstances, as save and except last seen, nothing surfaced during the course of investigation to connect this appellant with present occurrence, where informant is not the eye witness of the occurrence coupled with the fact that charge-sheet has been submitted, let the appellant, above named, is directed to be released on bail in connection with Mirganj P.S. Case No. 70 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, SC/ST (POA) Act, Purnea/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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