

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.729 of 2022

Arising Out of PS. Case No.-519 Year-2021 Thana- BAHADURPUR District- Darbhanga

Rajiv Kumar Kunwar @ Rajiv Kunwar Son of Ran Narayan Kumar @ Ran
Narayan Kunwar Resident of Village- Sinwar Gopar Ward No. 10, P.S.-
Bahadurpur (Felka O.P.), District- Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar
2. Usha Devi Wife of Late Basudeo Paswan Resident of Village-Kabilpur,P.S.-
Bahadurpur,District-Darbhangha

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vinay Kumar Mishra, Advocate
For the State : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 21-09-2022 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 (for short ‘the Act’) against
the order dated 01.02.2022 passed by learned 3rd Additional
Sessions Judge-cum-Exclusive Judge, SC/St (POA) Act,



Darbhanga in connection with Bahadurpur P.S. Case No. 519 of 2021 registered under Sections 341, 342, 323, 386, 307, 379, 506, 504 and 34 of Indian Penal Code and Section 3(i)(r)(s) of the 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. Appellant is named in F.I.R. and is in custody since 08.10.2021.

6. The allegation against the appellant is to assault the son of the informant with '*Katta*' (sharp edged weapon), alongwith other co-accusedp persons, when the informant's son failed to pay extortion amount of Rs.2,000/- (Rupees Two Thousand).

7. Learned counsel for the appellant submitted that the specific allegation regarding assault, as alleged to be caused by '*Katta*', is against Purushottam Choudhary @ Mitthu and not against this appellant, where allegation is limited only to make assault with fist. It is submitted that nothing surfaced from bare perusal of the F.I.R., which may, on its face, suggest that the act of appellant attract atrocities within the meaning of the Act.



While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet 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, while opposing the prayer of bail, fairly conceded the fact that allegation, as regard to assault with 'Katta' is against co-accused and not against this appellant.

10. In view of the facts and circumstances, as mentioned above, and also by considering the nature of accusation, where specific allegation is against co-accused, namely, Purushottam Kumar Choudhary @ Mitthu, let the appellant, above named, is directed to be released on bail in connection with Bahadurpur P.S. Case No. 519 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 3rd Additional Sessions Judge-cum-Exclusive Special



Judge, SC/ST (POA) Act, Darbhanga/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 01.02.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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