

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.699 of 2022

Arising Out of PS. Case No.-205 Year-2021 Thana- LAURIA District- West Champaran

HARI YADAV S/o Pahwari Yadav R/o Village - Lauriya, Mishra Tola, P.S. -
Lauriya, District - West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bimlesh Kumar Pandey, Advocate
For the Respondent/s : Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 2 14-07-2022 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 “SC/ST Act”) against the refusal of prayer for bail vide order dated 24.01.2022 passed by the learned Additional District and Sessions Judge 1st – cum-Special Judge, SC/ST, Bettiah, West Champaran in connection with Lauriya P.S. Case No. 205 of 2021 registered under Sections 302/34 of Indian Penal Code and Section 3(i) (r), 3(2)(v) 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 16.08.2021.
6. The allegation against the appellant is to commit murder of mother of the informant along with other co-accused persons.
7. Learned counsel for the appellant submitted that informant is not the eye-witness of present occurrence and the entire allegation is based upon previous disputes and differences. It has further been submitted that without obtaining the FSL report, charge-sheet has been submitted in this case. It has further been submitted that petitioner is man of clean antecedent. While concluding the argument, it has been submitted that name of the petitioner surfaced during course of investigation and 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.
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, as per FIR.

10. In view of the submissions, as made above, as the informant is not the eye-witness of the present occurrence, allegation as regard to assault is general and omnibus in nature against the appellant, who is a man of clean antecedent coupled with the fact that charge-sheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Lauriya P.S. Case No.205 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 Additional District and Sessions Judge 1st – cum-Special Judge, SC/ST, Bettiah, West Champaran, subject to the following conditions:

“(i) Appellant shall cooperate in the trial



and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellant, duly supported by the documents.

(ii) That one of the bailors shall be Mainejar Yadav, who is the son of the appellant and deponent of the present appeal.”

11. Accordingly, impugned order dated 24.01.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

S.Katyayan/
R.S. Sen/-

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