

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.751 of 2022

Arising Out of PS. Case No.-461 Year-2021 Thana- SAHARSA SADAR District- Saharsa

1. ANIL PASWAN, Son of Baleshwar Paswan Resident of Village- Sarahi, Ward No.03 and 04, P.S. and District- Saharsa.
2. Kamal Paswan, Son of Siyaram Paswan Resident of Village- Sarahi, Ward No.03 and 04, P.S. and District- Saharsa.
3. Bharat Paswan, Son of Ramji Paswan Resident of Village- Sarahi, Ward No.03 and 04, P.S. and District- Saharsa.
4. Satrudhan Paswan, Son of Ramji Paswan Resident of Village- Sarahi, Ward No.03 and 04, P.S. and District- Saharsa.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pramod Mishra, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL ORDER

- 2 28-07-2022 1. Heard learned counsel for the appellants and learned Special P.P. for the State.
2. The appellants have 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 02.02.2022 passed by the learned Additional Sessions Judge 3rd -cum- Special Judge, Saharsa in connection with Saharsa Sadar P.S. Case No. 461 of 2021 registered under Sections 147,



148, 149, 341, 323, 307, 447, 429 and 504 of Indian Penal Code, Section 27 of the Arms Act and Section 3(i)(r)(s) of SC/ST Act.

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

4. The appellants are named in F.I.R. and appellant no.1, 2 and 3 are in custody since 09.01.2022 and appellant no.4 is in custody since 21.01.2022.

5. The allegation against the appellants is to shot the informant and the other family members along with co-accused persons, equipped with deadly weapons. It is further alleged that indiscriminate firing was cause for 22 to 25 minutes, where father-in-law of the informant and one buffalo received injury.

6. Learned counsel for the appellants submitted that appellant has falsely been implicated in the present case, who also belongs to same castes and as such SC/ST Act is not applicable against the appellants. It is submitted that there is land dispute between the parties and allegation as regard to the assault is very much general and omnibus. It is also submitted that during course of investigation, nothing incriminating surfaced or recovered from



conscious physical possession of the appellants, which may connect the appellant, with the present set of occurrence, and moreover, similarly situated co-accused persons have already been granted bail by one of the learned co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 3619 of 2021 dated 30.11.2021. It is also 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 no.1, appellant no. 3 and appellant no.4 have no criminal antecedent. 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.

7. Learned counsel for the appellants 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.***
8. Learned Special P.P. for the State, while opposing prayer for bail, fairly conceded the fact that nature of



allegation as regard to assault is very much general and omnibus against the appellants.

9. In view of the submissions, as made above, as allegation as regard to assault is very much general and omnibus against the appellants coupled with the fact that the charge-sheet has been submitted, let the appellants, above named, are directed to be released on bail in connection with Saharsa Sadar P.S. Case No. 461 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 3rd -cum-Special Judge, Saharsa, subject to the following conditions:

“(i) That appellants shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the appellants.

(ii) Appellants 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 appellants, duly supported by the documents.



(iii) That one of the bailors shall be Ramesh Kumar Paswan, who is the son of the appellant no.2 and deponent of the present appeal.”

10. Accordingly, impugned order dated 02.02.2022 is set aside.

11. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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