

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.744 of 2022**

Arising Out of PS. Case No.-425 Year-2021 Thana- JAGDISHPUR District- Bhojpur

Awadh Bihari Singh Son of - Kamala Singh Resident of Village - Morcha,
Police Station - Jagdishpur, District - Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Shivdhari God son of - Late Vimal God Resident of Village - Jagdishpur
Jaga Ke Pipal Ward No. 18, P.S. - Jagdishpur, District - Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Shiv Prasad Gupta, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, Spl. PP
For the Informant	:	Mr. Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 25-08-2022 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 21.01.2022 passed by the learned 1st Additional
Sessions Judge, Bhojpur, Ara in connection with Jagdishpur P.S.
Case No. 425 of 2021 registered under Sections 365, 302, 201
and 34 of Indian Penal Code and Section 3(ii)(v) 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 and duly represented.

5. Appellant is not named in F.I.R. and is in custody since 20.10.2021.

6. The allegation against the appellant is to commit murder of the son of the informant, alongwith other co-accused persons in the background of the previous enmities.

7. Learned counsel for the appellant submitted that name of the appellant surfaced on the basis of confessional statement made by co-accused, namely, Rajesh Kumar, who is none but the son of this appellant. It is submitted that nothing incriminating surfaced/recovered during the course of investigation, in furtherance of said confession, which may connect the appellant, *prima facie*, with the present set of occurrence. It is further submitted that appellant, being father of the main accused, has been implicated in the present case. It is submitted that informant is not the eye witness of the occurrence and the entire allegation is based upon suspicion, as daughter of the appellant was in friendly terms with the deceased, having regular conversation over mobile phone. It is also submitted that the act of appellant cannot be said to be of such nature, which may attract atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellant is a man



of clean antecedent and, moreover, investigation in this case is complete for which chargesheet 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. for the State duly assisted by learned counsel for the informant, while opposing the prayer of bail, fairly conceded that informant is not the eye witness of the occurrence.

10. In view of the facts and circumstances, as mentioned above, as informant is not the eye witness of the occurrence, where nothing recovered/surfaced during the course of investigation, which may connect the appellant, *prima facie*, with the present set of occurrence coupled with the fact that charge has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Jagdishpur P.S. Case No. 425 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 at Ara/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 21.01.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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