

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1252 of 2022

Arising Out of PS. Case No.-71 Year-2021 Thana- UCHKAGAON District- Gopalganj

Nitish Kumar @ Nehal Son of Ramashish Sah Resident of Village - Amtha
Bhuwan, P.O. Uchkagaon, P.S. Uchkagaon, District - Gopalganj.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dhramveer, Advocate

For the Appellant : Mr. Dhanu Veer, Advocate
For the State : Ms. Usha Kumari 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 12-10-2022 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 the learned Additional Sessions Judge-III-cum-Special Judge, SC/ST, Gopalganj in connection with Uchkagaon P.S. Case No. 71 of 2021 registered under Sections 395 and 397 of Indian Penal Code and Section 27 of the Arms Act.

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

4. It is submitted by learned Spl. PP that information



has already been given to the informant in terms of the order dated 21.07.2022 and 01.09.2022 of this Court. Informant failed to join the present proceedings.

5. Appellant is not named in F.I.R. and is in custody since 17.06.2021.

6. The allegation against the appellant is to commit dacoity, alongwith other co-accused persons and while committing so, taken away Rs.51,960/- belongs to the informant and also to cause fire arm injury to the staff of gas agency of the informant.

7. Learned counsel for the appellant submitted that name of the appellant surfaced on the basis of confessional statement of co-accused, where nothing surfaced during the course of investigation, which may connect the appellant, *prima facie*, with the present set of dacoity. It is submitted that appellant has not been put on T.I.P. as yet. It is further submitted that the appellant's name surfaced in this case only as he was found involved in six more criminal cases, where, in maximum cases, name of the appellant surfaced on the basis of confessional statement, as of the present case. 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 that appellant was not named in the F.I.R.

10. In view of the facts and circumstances, as mentioned above, as nothing incriminating recovered/surfaced during the course of investigation, which may connect this appellant, *prima facie*, with the present set of dacoity coupled with the fact that chargesheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Uchkagaon P.S. Case No. 71 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 Sessions Judge-III-cum-Special Judge-



SC/ST, Gopalganj/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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