

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1189 of 2022**

Arising Out of PS. Case No.-61 Year-2021 Thana- MAHISHI District- Saharsa

Ajeet Sharma S/O Khokhi Sharma @ Sokhi Sharma R/o village- Bhawdeva,
Ward No. 15, P.S.- Bakhtiyarpur (Balwahat O.P.), District- Saharsa

... .. Appellant/s

Versus

1. The State of Bihar
2. Dinesh Ram S/o Jagdish Ram R/o village- Hanuman Nagar, P.S.- Beldaur,
District- Khagaria

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Satish Kumar Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

5 28-09-2022 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 11.03.2022 passed by the learned Additional Sessions Judge-
III-cum-Special Judge (SC/ST), Saharsa in connection with Mahishi
P.S. Case No. 61 of 2021 registered under Sections 302, 201, 120(B)
and 34 of the Indian Penal Code, under Section 27 of the Arms Act
and under Section 3 (1) (r) (s), 3(2) (V) and 3 (2) (va) of SC/ST Act.

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

4. It appears from perusal of office report that notice



available served upon but informant failed to join present proceeding.

5. Appellant is not named in F.I.R. and is in custody since 20.01.2022.

6. The allegation against the appellant is commit murder of the niece of the informant along with other co-accused persons.

7. Learned counsel for the appellant submitted that the name of appellant surfaced in present case only for the reason that, as per call details report (CDR), he found in conversation with deceased, on single occasion, where admittedly informant is not the eye witness of the occurrence. It is further submitted that the named accused, who is prime suspect in this case, namely, Mukesh Thakur, has already been granted bail by one of the learned co-ordinate Bench of this Court through Cr. App. No. (SJ) 3711 of 2021 vide order dated 23.06.2022. It is further pointed out that appellant also belongs to SC/ST communities and, as such, the present act is not applicable, as regard to appellant. While concluding the argument, it is submitted that investigation of this case is completed, for which, charge-sheet is 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 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 entire allegation is based upon suspicion, let the appellant, above named, is directed to be released on bail in connection with Mahishi P.S. Case No. 61 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-Exclusive Special Judge, Saharsa/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 11.03.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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