

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1527 of 2022

Arising Out of PS. Case No.-712 Year-2021 Thana- KAHALGAON District- Bhagalpur

Raja Kumar @ Raja Babu Son of Pawan Singh @ Mantu Singh Resident of Village - Dhanokhar, P.s.- Sanokhar, Distt.- Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Harsh Singh, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 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 10.02.2022 passed by the learned 3rd Additional Sessions Judge-cum-Special Judge, SC/ST, Bhagalpur in connection with Kahalgaon P.S. Case No. 712 of 2021 registered under Sections 147, 302 and 201 of the Indian Penal Code and Section 3(1)(r)(s) and subsequently added Section (2)(v) of the 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. Appellant is named in F.I.R. and is in custody since 12.01.2022

6. The allegation against the appellant is to commit murder of the son of the informant, along with other co-accused persons, by assaulting with fist and after killing, they threw the dead body in the nearby pond.

7. Learned counsel for the appellant submitted that the allegation of assault is very much general and omnibus, against this appellant. It is submitted that the occurrence took place within spur of the moment while attending orchestra party and, as such, it cannot be said that appellant was under intention to cause death. It is further submitted that appellant was not equipped with any deadly weapon, which further negate the intention. It is further submitted that the time of injury mentioned in the post-mortem report, suggests that the occurrence is disputed. It is also submitted that the statement of one Chunchun Tanti, claiming to be an eye witness of the occurrence, was recorded after three (3) months of lodging of the FIR, where narration of occurrence appears improved as alleged through FIR, which is based upon hearsay input,



making entire allegation doubtful. It is also submitted that the face of F.I.R. itself suggests that the act of appellant cannot be said atrocities within the meaning of the Act. While concluding the argument, it is submitted that investigation in this case is complete for which charge-sheet 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 duly assisted by learned counsel for the informant, while opposing the prayer of bail, submitted that there is no reason to disapprove the version of eye witness and, moreover, the appeal of similarly situated co-accused person has already been rejected by one of the learned Co-ordinate Bench of this Court through Cr. Appeal (SJ) 1007 of 2022 vide order dated 18.08.2022.

10. In view of the facts and circumstances, as mentioned above, as allegation of assault raised against this appellant is very much general and omnibus, in the background of contradictory statement of eye witness regarding manner of



assault 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 Kahalgaon P.S. Case No. 712 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 3rd Additional Sessions Judge-cum-Special Judge, Bhagalpur/concerned Court, subject to the following conditions:

“(i) That appellant 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 appellant.

(ii) 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



Pawan Singh @ Mantu Singh, who is the
father of the appellant and deponent of the
present appeal.”

11. Accordingly, impugned order dated 10.02.2022 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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