

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1512 of 2022

Arising Out of PS. Case No.-173 Year-2021 Thana- HARNAUT District- Nalanda

KAJU KUMAR PANDEY @ KAJU KUMAR S/O SRI VIJAY PANDEY R/o
village- Nehusa, P.S.- Harnaut, District- Nalanda (Bihar)

... .. Appellant/s

Versus

1. The State of Bihar
2. Jadu Paswan S/o Late Brahmdeo Paswan R/o village- Nehusa Milki, P.S.-
Harnaut, District- Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Arun Kumar, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, APP
For the Informant	:	Mr. Raj Kishor Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 3 28-09-2022 1. Heard learned counsel for the appellant and learned
Special P.P. for the State as well as learned counsel for the
respondent no.2/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, 1989
(hereinafter referred to as “the Act”) against the refusal of
prayer for bail vide order dated 15.03.2022 passed by the
learned Additional District and Sessions Judge-III-cum-
Special Judge SC/ST Act, Biharsharif, Nalanda in
connection with Harnaut P.S. Case No. 173 of 2021



registered under Sections 364, 302, 201 and 120(B) of Indian Penal Code and Section 3(2)(v) of 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. The appellant is named in F.I.R. and is in custody since 02.03.2022.
6. The allegation against the appellant is to kidnap the daughter of informant and also to commit her murder along with other family members/co-accused persons.
7. Learned counsel for the appellant submitted that admittedly, informant is not the eye-witness of the occurrence, where, entire allegation is based upon hearsay version of one, Mamta Devi, who not even examined, during course of investigation. It is also submitted that the daughter of the informant was working with said Mamta Devi, who for no reason, named this appellant. It is also submitted that alleged motorcycle recovered in connection with presence occurrence is also not registered in favour of this appellant, rather same stands in the name of one Nishant Kumar. It is further submitted that the



report of Forensic Science Laboratory also not suggesting anything towards incrimination of this appellant, who is a man of clean antecedent. It is also submitted that for local disputes and differences, appellant along with family members were implicated falsely and further act of the petitioner cannot be said atrocities, within meaning of Act. 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.

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 Respondent No.2/Informant, while opposing prayer for bail, fairly conceded the fact that the informant is not the eye-witness of the present occurrence.
10. In view of the submissions, as made above, as the informant is not the eye-witness of the present



occurrence, where allegation is based upon hearsay input coupled with the fact that the charge-sheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Harnaut P.S. Case No. 173 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 District and Sessions Judge-III-cum-Special Judge SC/ST Act, Biharsharif, Nalanda/concerned court, subject to conditions as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 15.03.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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