

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1530 of 2022

Arising Out of PS. Case No.-383 Year-2021 Thana- KOILWAR District- Bhojpur

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RAJ KUMAR RAI @ RAJ KUMAR RAI Son of Late Surendra Ray @ Ram
Badan Ray Resident of Village - Manachak, P.S.- Koilwar, Distt.- Bhojpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mahavir Ram Son of Lakhan Ram Resident of Village - Mahadevchak
Simaria, P.s.- Koilwar, Distt.- Bhojpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Pravin Kumar, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl. P.P.

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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 11.04.2022 passed by the learned 1st Additional
Sessions Judge-cum-Special Judge, SC/ST, Bhojpur at Ara in
connection with Koilwar P.S. Case No. 383 of 2021 registered
under Sections 147, 148, 341, 307, 504, 506, 149 of the Indian
Penal Code, Section 27 of the Arms Act and Section 3(i)(f)(g)(r)



(s), 3(2)(va) of SC/ST Act.

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

4. Learned Spl. P.P. is submitted that notice regarding present proceeding has already been issued to the informant/Respondent No.2 through S.P., Bhojpur, in terms of order dated 28.07.2022, but informant failed to join present proceeding, despite of information.

5. Appellant is named in F.I.R. and is in custody since 25.03.2022.

6. The allegation against this appellant is to assault upon informant, along with other co-accused persons, over disputed issue of sand mining, having intention to cause death. It is further alleged that firing was made by co-accused, Arun Kumar.

7. Learned counsel for the appellant submitted that the allegation against this appellant is very much general and omnibus, where specific allegations, as regard to open fire and causing fire arm injuries, are available against the co-accused, namely, Arun Kumar. It is submitted that it can be safely gathered from the face of FIR that the act of appellant cannot be said an atrocities within the meaning of the Act. It is further



submitted that appellant involved in 14 more criminal cases, where he is on bail in all cases, which have been arises out of business of sand mining. While concluding the argument, it is submitted that investigation in this case is complete for which charge-sheet 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 opposes the prayer of bail.

10. In view of the facts and circumstances, as mentioned above, as allegation against this appellant is very much general and omnibus, where specific allegations to open fire and causing firm arm injuries are available against the co-accused, namely, Arun Kumar, 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 Koilwar P.S. Case No. 383 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-cum-Special Judge, Schedule Caste/Schedule Tribe Act, Bhojpur at Ara/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 Manoj Kumar, who is the son of the appellant and deponent of the present appeal.”



11. Accordingly, impugned order dated 11.04.2022 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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