

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1544 of 2022

Arising Out of PS. Case No.-180 Year-2021 Thana- BHARGAMA District- Araria

Dayanand Yadav Son of Late Sngheshwar yadav @ Late Sidheshwar Yadav
Resident of Village - Raghunath Pur North, P.s.- Bhargama, Distt.- Araria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Umesh Rishideo Son of Kartik Rishideo Resident of Village - Raghunath Pur North, P.s.- Bhargama, Distt.- Araria.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Manisha Prakash, Advocate
For the State	:	Mr. Usha Kumari 1, Spl. PP
For the Informant	:	Mr. Upendra Prasad, Advocate
	:	Mrs. Veena Kumari Jaiswal, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 23-11-2022 1. Heard learned counsel for the appellant, learned Special P.P. for the State and learned counsel for the 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 (for short ‘the Act’) against the order dated 16.03.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Araria in connection with Bhargama P.S. Case No. 180 of 2021 registered under Sections 147, 148, 149, 341, 323, 324, 325, 326, 307, 302, 379 and 504 of Indian Penal Code, Sections 3(i)(r), 3(i)(s) and 3(2)(v) of the Act and Section 27 of the Arms 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 24.12.2021.

6. The allegation against the appellant is to commit murder of uncle of the informant, alongwith other co-accused persons, by causing fire arm injury, due to long standing land dispute.

7. Learned counsel for the appellant submitted that informant was ousted from the disputed piece of land through proceedings as made under Sections 144 and 145 of the Cr.P.C. and, as such, having no occasion to remain over the disputed piece of land and if so, the status is not more than an aggressor. It is submitted that the alleged firing was made in retaliation of firing, which was made by the informant and others. It is further 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 duly assisted by learned counsel for the informant, while opposing the prayer of bail, submitted that the allegation of indiscriminate firing is specific against this appellant, which is in full corroboration with post mortem report, as same is also suggesting multiple fire arm injuries. It is further submitted that plea of private defence is unfounded and beyond the bucket of prosecution.

10. In view of the facts and circumstances, as mentioned above, as specific allegation of indiscriminate firing is available against this appellant, which is in corroboration with post mortem report, this Court is not inclined to grant bail to the appellant.

11. Accordingly, the prayer of bail of the appellant is rejected herewith.

12. Hence, appeal stands dismissed.

13. However, learned Trial Court is directed to



conclude the trial within a period of nine (09) months from the date of receipt of this order, by taking the matter on board, on day to day basis, if required.

14. Superintendent of Police, Araria is directed to produce all the chargesheeted witnesses, as and when directed by the learned Trial Court, so as to conclude the trial within the aforesaid time period, as directed above.

(Chandra Shekhar Jha, J)

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