

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1581 of 2022

Arising Out of PS. Case No.-175 Year-2021 Thana- PAKRIDAYAL District- East Champaran

Sanjay Pandit Son of Krishna Pandit Resident Of Village- Dulma, P.S-
Madhuban, Dist- East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Shail Kumari Devi Wife of Yogendra Baitha Resident Of Village- Dulma
Tiwari Tola Ward No 4 P.S- Madhuban, Dist- East Champaran

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 13-10-2022 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 29.03.2022 passed by the learned Special Judge
(SC/ST), East Champaran at Motihari in connection with
Pakadidayal P.S. Case No. 175 of 2021 registered under
Sections 302, 120(B) and 34 of the Indian Penal Code and
Sections 3(1) (r) (s) and 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. Appellant is named in F.I.R. and is in custody since 28.02.2022.

6. The allegation against the appellant is to commit murder of the son of informant, alongwith other co-accused persons due to previous enmities.

7. Learned counsel for the appellant submitted that informant is not the eye witness of the occurrence, where entire allegation is based upon suspicion. It is further submitted that the basis of F.I.R. is hearsay input and as such it cannot be accepted on its face. It is further submitted that similarly situated co-accused person, namely, Krishna Pandit, has already been granted bail by one of the learned co-ordinate Bench of this Court through Cr. App. (SJ) No. 1612 of 2022 vide order dated 22.09.2022. It is also submitted that the source of information is unknown childrens of the village, where occurrence took place, even same is not suggesting that appellant was found roaming in the area about time of occurrence. It is also submitted that the F.I.R. on its face is not speaking anything, which may suggest that act of appellant is



within the meaning of an atrocities, as defined under the Act. While concluding the argument, it is submitted that appellant is a man of clean antecedent and moreover, investigation of this case is completed, for which, charge-sheet has already been submitted and, 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 appearing on behalf of informant, 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 allegation is founded over suspicion 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 Pakadidayal P.S. Case No. 175 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 Special Judge, SC/ST Act, East Champaran at Motihari/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 29.03.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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