

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1571 of 2022

Arising Out of PS. Case No.-146 Year-2020 Thana- JANTA BAZAR District- Saran

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OSHIHAR MANJHI SON OF RANGILA MANJHI R/O VILLAGE-
BASAHI, P.S.- JANTA BAZAR, DISTRICT- SARAN AT CHAPRA

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Anjani Parashar, Advocate
For the Respondent/s : Ms. Usha Kumari 1, Special P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 2 28-07-2022 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 “SC/ST Act”) against the refusal of prayer for bail vide order dated 25.02.2022 passed by the learned Additional District and Sessions Judge-III-cum-Special Judge, SC/ST (POA) Act, Saran at Chapra in connection with Janta Bazar P.S. Case No. 146 of 2020 registered under Sections 147, 148, 149, 447, 341, 302, 120(B) and 506 of Indian Penal Code, Section



27 of Arms Act 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. The appellant is named in F.I.R. and is in custody since 04.02.2022.
6. The allegation against the appellant is to commit murder of brother of the informant along with other co-accused persons, equipped with deadly weapons and also with fire arms.
7. Learned counsel for the appellant submitted that appellant is also member of same castes/community, as such, SC/ST Act is not applicable. It is submitted that specific allegation of assault is against co-accused, Mrityunjay Pandey and allegation as regard to firing is against Pushkar Pandey, where allegation against appellant is limited to be member of mob only, instigating to fire. It is also submitted that appellant is also involved in one other case, in which, he is on bail. While concluding the argument, it is submitted that from bare



perusal of FIR, it appears that there is no overt act against the appellant, which attracts atrocities within the meaning of the Act.

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 allegation as regard to assault is very much general and omnibus in nature against the appellant.
10. In view of the submissions, as made above, as no over act attributed to the appellant with limited allegation to be a member of mob, let the appellant, above named, is directed to be released on bail in connection with Janta Bazar P.S. Case No. 146 of 2020 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-Exclusive Special Judge, SC/ST(POA) Act, Saran at Chapra, 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) Accused/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.

(iii) That one of the bailors shall be Radhika Devi, who is the wife of the appellant and deponent of the present bail petition.”

11. Accordingly, impugned order dated 25.02.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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