

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1876 of 2022**

Arising Out of PS. Case No.-54 Year-2021 Thana- HULASGANJ District- Jehanabad

1. Sanjay Yadav @ Sanjay Prasad Son of Late Indradeo Yadav Resident of Village - Inaichak, P.S.- Mahkar in the district of Gaya.
2. Anooj Kumar @ Anoj Yadav Son of Bhim Yadav Resident of Village - Inaichak, P.S.- Mahkar in the district of Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Chitranjan Paswan Son of Late Mathura Paswan Resident of village- Jaru, P.S-Hulasganj, District-jehanabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sunil Kumar, Advocate
For the Informant	:	Mr. Nishikant Anand, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

3 28-09-2022 1. Heard learned counsel for the appellants, learned Special P.P. for the State and learned counsel appearing on behalf of informant on point of admission and on merit also.

2. The appellants have 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 19.02.2022 passed by the learned District and Sessions Judge-I, Jehanabad in connection with Hulasganj P.S. Case No. 54 of 2021 registered under Sections 302, 201, 364 and 34 of the Indian Penal Code and Section 3(i) (r) (s) and 3 (2) (v) of SC/ST (POA) 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. Appellants are not named in F.I.R. and is in custody since 08.02.2022.

6. The allegation against both the appellants are to commit murder of son of the informant, alongwith other co-accused persons.

7. Learned counsel for the appellants submitted that the both appellant are not named in F.I.R. and their name surfaced on the basis of co-accused Surendra Yadav and Dharmendra Yadav, where nothing surfaced during the course of investigation to connect both appellants, *prima facie*, with present occurrence of murder. It is further submitted that one Pooja Kumari, who is the eye witness of this occurrence, not named these appellants, while recording her statement under Section 161 of the Cr.P.C., during the course of investigation. It is further submitted that similarly situated co-accused persons have already been granted bail by one of the learned co-ordinate Bench of this Court through Cr. App. No. (SJ) 3645 of 2021 dated 01.11.2021. It is further submitted that the act of appellants cannot be suggest that same is within the meaning of atrocities, as defined under Act. While concluding the argument, it is submitted that investigation of this case is completed, for which, charge-sheet is submitted and, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellants 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, namely, Mr. Nishikant Anand, while opposing the prayer of bail, submitted that both appellants are not named in F.I.R.

10. In view of the facts and circumstances, as mentioned above, as nothing incriminating surfaced/recovered to connect both the appellants with present set of murder, let the appellants, above named, is directed to be released on bail in connection with Hulasganj P.S. Case No. 54 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-I, Jehanabad/concerned Court, subject to the following conditions:

“(i) That the accused/appellants 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 both the appellants.

(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 both the appellants duly supported by the documents.

(iii) That one of the bailors shall be Anil Kumar, who is the son-in-law of the appellant no. 1 and deponent/family member of the present bail petition.”

11. Accordingly, impugned order dated 19.02.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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