

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1878 of 2022

Arising Out of PS. Case No.-440 Year-2021 Thana- NAUGACHIA District- Bhagalpur

Rahul Yadav S/o Bindeshwari Yadav R/o village- Bhawanipur, P.S.- Rangra,
District- Bhagalpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Indeshwari Prasad Mandal, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.
For the Informant : Mr. Ajay Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 19-10-2022 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 27.04.2022 passed by the learned 3rd Additional District Judge-cum-Special Judge (SC/ST), Bhagalpur in connection with Naugachia P.S. Case No. 440 of 2021 registered under Sections 302, 201 and 34 of the Indian Penal Code and Section 3(2) (V) of the 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 informant, served upon and duly represented through learned District.

5. Appellant is not named in F.I.R. and is in custody since 25.01.2022.

6. The allegation against the appellant is to commit murder of son of the informant, alongwith other co-accused persons due to long-standing land disputes.

7. Learned counsel for the appellant submitted that admittedly, informant is not the eye witness of the occurrence, where entire allegation is based upon suspicion due to land dispute. It is further submitted that the name of appellant surfaced during the course of investigation and also on the basis of self-confession in furtherance of, which one rope was recovered from an open field, alleged to be used for committing murder of the son of informant, where no external injuries were found, while conducting post-mortem report, over under-neck area of the deceased, negating the entire allegation. It is further submitted that nothing can be gathered from the face of F.I.R., which may suggest that the act of the appellant was an atrocities within the meaning meaning of the Act. While concluding the argument, it is submitted that investigation of this case is completed, for which, charge-sheet has 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. It is further submitted that alleged rope was recovered from an open field in furtherance of, confessional statement of the appellant.

10. In view of the facts and circumstances, as mentioned above, as alleged rope was recovered from an open field, where no external injuries were found, while conducting post-mortem report, over under-neck area of the deceased 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 Naugachia P.S. Case No. 440 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 Sessions Judge-III-cum-



Special Judge, SC/ST Act, Bhagalpur/concerned Court, subject
to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 27.04.2022 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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