

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1884 of 2022

Arising Out of PS. Case No.-141 Year-2022 Thana- MOHANIYA District- Kaimur (Bhabua)

KUNDAN TIWARI Son of Ramesh Tiwari R/o village - Awarih, P.S.-
Mohania, District - Kaimur at Bhabua

... .. Appellant/s

Versus

1. The State of Bihar
2. Mithun Kumar Bharti Son of Dhirendra Kumar Bharti R/o village -
Stuwarganj, P.S.- Mohania, District - Kaimur at Bhabua

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Tribhuwan Narayan, Advocate
For the Respondent/s : Mr. Binay Krishna, Special P.P.

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 28.04.2022
passed by the learned Additional Sessions Judge 1st -cum-
Special Judge, Kaimur at Bhabua in connection with
Mohaniya P.S. Case No. 141 of 2022 registered under



Sections 341, 324, 307, 504, 506 and 34 of Indian Penal Code, Section 27 of Arms Act and Section 3(1)(r)(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 23.03.2022.
6. The allegation against the appellant is to abuse the informant in caste name, while in drunken condition and also fired upon the informant along with other co-accused persons, with intention to cause death.
7. Learned counsel for the appellant submitted that it appears from nature of injury and by taking note of the manner of firing, it can be safely gathered that appellant was not under intention to cause death of the informant/injured. It is submitted that the occurrence took place, due to neighborhood disputes and differences. It is also submitted alleged fire arms injury, which is simple in nature is not on the vital part of body, negating intention of appellant to cause death thereof. It is also submitted



that the dispute and differences, which is the calyx of the present occurrence, now compromised between the parties blooming thereof good sense and harmony prevails law. It has further been 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. While concluding the argument, it is submitted that investigation has been completed, for which, charge-sheet has already been submitted in this case, 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 Respondent No.2/Informant, while opposing prayer for bail, fairly conceded factum of compromise between the parties.
10. In view of the submissions, as made above, as the nature of injury and manner of assault not suggests on its face that appellant was under intention to cause death of



informant/injured coupled with the fact that the charge-sheet has been submitted, let the appellant, above named, is directed to be released on bail in connection with Mohaniya P.S. Case No. 141 of 2022 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 1st -cum-Special Judge, Kaimur at Bhabua, subject to the following conditions:

“(i) 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.

“(ii) That one of the bailors shall be Geeta Devi, who is the mother of the appellant and deponent of the present appeal.”

11. Accordingly, impugned order dated 28.04.2022 is set aside.
12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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