

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2002 of 2022**

Arising Out of PS. Case No.-410 Year-2021 Thana- GAYA KOTWALI District- Gaya

Niraj Kumar @ Niraj Rawani S/o Mr. Indradeo Singh R/o Mohalla- Gol
Bagicha Gabra Par Near Kali Mandir, P.S.- Kotwali, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Abhinav Kumar @ Lakki Kumar S/o Awadhesh Choudhary R/o Mohalla-
Sriram Nagar Colony, Jheelganj, Nai Godam, P.S.- Kotwali, District- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Udbhav, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

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

5 23-11-2022 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 01.02.2022 passed by the learned Exclusive Special Judge
(SC/ST), Gaya in connection with Kotwali P.S. Case No. 410 of 2021
registered under Sections 302, 337, 338, 427, 504, 506, 120(B) and
34 of the Indian Penal Code and under Section 3(2) (va) 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 13.09.2021.

6. The allegation against the appellant is to commit murder of uncle of the informant, along with other co-accused persons for previous enmities.

7. Learned counsel for the appellant submitted that the maximum allegation against this appellant is to caught hold hand of the deceased, where specific allegation, as regard to assault with stone, is available against co-accused Mahesh Yadav, who has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. App. (SJ) No. 2289 of 2022 While concluding the argument, it is submitted that investigation is completed, for which, charge-sheet is submitted, 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 specific allegation, as regard to



fatal assault is against co-accused, Mahesh Yadav.

10. In view of the facts and circumstances, as mentioned above, as allegation of fatal assault is not available against this appellant, rather same is against co-accused Mahesh Yadav, let the appellant, above named, is directed to be released on bail in connection with Kotwali P.S. Case No. 410 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 Exclusive Special Judge, SC/ST Act, Gaya/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 01.02.2022 is set aside.

12. Hence, appeal stands allowed.

13. Presence of I.O. in this case before this Court is dispensed with.

(Chandra Shekhar Jha, J)

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