

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2013 of 2022

Arising Out of PS. Case No.-173 Year-2022 Thana- SIWAN MUFFASIL District- Siwan

Chandreshwar Choudhari @ Chandreshwar Choudhary @ Chandreshwar
Yadav Son of Kapil Choudhary Resident of Village - Chhotpur, p.s.- Siwan
(Mufassil), Distt.- Siwan.

... .. Appellant/s

Versus

1. The State of Bihar
2. Brajesh Ram Son of Late Kanchan Ram Resident of Village - Sarawe,
Harijan Toli, P.s.- Siwan (Mufassil), Distt.- Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sharda Nand Mishra, Advocate Mr. Rajiv Ranjan, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 28-09-2022 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 26.05.2022 passed by the learned 1st Additional
Session Judge-cum-Special Court SC/ST (POA) Act, Siwan in
connection with Muffasil P.S. Case No. 173 of 2022 registered
under Sections 328, 302 and 34 of the Indian Penal Code and
Section 3(2) (V) (a) 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 25.03.2022.

6. The allegation against the appellant is to supply spurious liquor to deceased in a bottle, which is printed with a description of Homeopathic medicine to the father of informant, namely, "Homeopathic Marfsol-30", while deceased went to participate in a funeral for beating drums.

7. Learned counsel for the appellant submitted that from bare perusal of F.I.R., no offence is made out against this appellant. It is further submitted that informant is not the eye witness of the occurrence. It is also submitted that as postmortem was not conducted upon, therefore, it cannot be said that death of father of informant caused due to consumption of alleged spurious liquor. It is also submitted that the present case was lodged due to certain misunderstanding between parties where later on, an application was filed on behalf of informant before the Trial Court itself, stating thereof that death of his father was natural. It is also submitted that nothing can be gathered from the face of F.I.R., which may suggest that act of appellant is within the meaning of atrocities, as defined under



the Act. While concluding the argument, it is submitted that appellant is a man of clean antecedent.

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, namely, Mr. Mrintujay Kumar, while opposing the prayer of bail, fairly conceded that informant is not the eye witness of the occurrence.

10. In view of the facts and circumstances, as mentioned above, as death of father of informant cannot be said due to consumption of spurious liquor in want of postmortem report let the appellant, above named, is directed to be released on bail in connection with Muffasil P.S. Case No. 173 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 1st Additional Session Judge-cum-Special Court, SC/ST (POA), Siwan/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.



11. Accordingly, impugned order dated 26.05.2022 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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