

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2192 of 2022**

Arising Out of PS. Case No.-96 Year-2021 Thana- GWALPARA District- Madhepura

Kundan Yadav S/O- Late Dashrath Yadav Resident of Village- Shekhpura
Chaman Gosai Tola, Ward No.14, P.S.- Udakishunganj, District- Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar
2. Santu Kumar Ram S/O Late Shyamlal Ram Resident of Vill- Bisbari Khard
No.-4, P.S.- Gwalpara, District- Madhepura.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rajnish Kumar Singh, Advocate
For the State : Mr. Binay Krishna, Spl. PP

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

4 12-10-2022 1. Heard learned counsel for the appellant and learned
Special P.P. for the State, 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 12.04.2022 passed by the learned Additional
Sessions Judge-I-cum-Special Judge, SC/ST Act, Madhepura in
connection with Gwalpara P.S. Case No. 96 of 2021 registered
under Sections 147, 148, 149, 341, 323, 324, 384, 307 and 302
of Indian Penal Code, Section 27 of the Arms Act and Sections
3(i)(v) and 3(i)(va) of the Act.



3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. It is submitted by learned Spl. PP that information has already been given to the informant regarding the present proceedings in terms of the order dated 04.08.2022 through Superintendent of Police, Madhepura. Informant failed to join the present proceedings.

5. Appellant is named in F.I.R. and is in custody since 16.11.2021.

6. The allegation against the appellant is to commit murder of father of the informant, alongwith other co-accused persons/co-villagers due to previous enmities.

7. Learned counsel for the appellant submitted that allegation, as regard to physical assault, is very much general and omnibus against this appellant. It is submitted that, though, the informant stated in the First Information Report (F.I.R.) that specific allegation of assault was caused by this appellant over thigh and chest of the deceased, but no any specific allegation was raised during the course of investigation, while his restatement was recorded. It is further submitted that informant furnished an affidavit before the learned Trial Court itself restating thereof that he was not the author of the First



Information Report (F.I.R.) and also it was not explained and read over to him, which creates a doubt over entire veracity of allegation, as raised by the informant. It is submitted that nothing surfaced from bare perusal of the F.I.R., which may, on its face, suggest that the act of appellant attract atrocities within the meaning of the Act. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet has already been 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 opposes the prayer of bail.

10. In view of the facts and circumstances, as mentioned above, as allegation, as regard to fatal assault, is very much general and omnibus against this appellant, having material contradictions between First Information Report and restatement of the informant, in the background of an affidavit of the informant, furnished before the learned Trial Court, as



made available to this Court also through supplementary affidavit dated 11.10.2022 coupled with the fact that chargesheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Gwalpara P.S. Case No. 96 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-I-cum-Special Judge, SC/ST (POA) Act, Madhepura/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 12.04.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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