

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2194 of 2022**

Arising Out of PS. Case No.-238 Year-2020 Thana- MANJHI District- Saran

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Raja Ansari Son of Salamat Ansari Resident of Village- Katohar P.S.- Manjhi
Distt- Saran

... .. Appellant/s

Versus

1. The State of Bihar
2. Binod Kumar Singh Son Of Late Nand Kishor Singh Resident of Village-
Katohar P.S.- Manjhi Distt- Saran at Chapra

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Vijay Kumar,Advocate

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 28-09-2022 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 09.05.2022 passed by the learned 3rd Additional
District and Session Judge-cum-Special Judge, SC/ST (PoA)
Act, Saran at Chapra in connection with Manjhi P.S. Case No.
238 of 2020 registered under Sections 147, 148, 323, 307, 376
and 511 of Indian Penal Code and Section 3(r)(s) of the SC/ST
(PoA) Act.



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

4. Learned Special P.P. submitted that informant was duly informed in terms of order dated 04.08.2022 of this Court but informant failed to join present proceeding of this Court.

5. Appellant is named in F.I.R. and is in custody since 27.04.2022.

6. The allegation against the appellant is to make an attempt to commit rape upon daughter of the informant and also to abuse caste name, along with other co-accused persons. It is further alleged that assault was made with an intention to cause death.

7. Learned counsel for the appellant submitted that allegation against the appellant is limited to display a video of containing adults contents before the daughter of the informant, whereas thrust of allegation, as regard to attempt for rape is against co-accused, Sadil Ansari. It is submitted that accusation against this appellant is based upon electronic evidence, where mandatory certificate under Section 65(B) of the Indian Evidence Act, was not obtained during the course of investigation. It is further submitted that matter has been compromised between the parties, and accordingly, similarly



situated co-accused person, Jaidullah Khan @ Jaidullah, has been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 293 of 2022 vide order dated 19.05.2022. It is also submitted that face of the FIR is unable to suggest that act of appellant is atrocities within the meaning of the Act. While concluding the argument, it is submitted that investigation in this case is complete for which charge-sheet 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. opposes the prayer of bail.

10. In view of the facts and circumstances, as mentioned above, as thrust of allegation, as regard to, attempt for rape is against co-accused, Sadil Ansari, not against this appellant coupled with the fact charge-sheet has been submitted, let the appellant, above named, is directed to be released on bail in connection with Manjhi P.S. Case No. 238 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with



two sureties of the like amount each to the satisfaction of learned 3rd Additional District and Session Judge-cum-Special Judge, SC/ST (PoA) Act, Saran at Chapra/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 09.05.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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