

Arising Out of PS. Case No.-276 Year-2020 Thana- KOILWAR District- Bhojpur

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... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Surendra Kishore Thakur, Advocate
For the State	:	Ms. Usha Kumari 1, Spl. PP
For the Informant	:	Mr. Prakash Chandra Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 08-09-2022 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 24.05.2022 passed by the learned Special Judge, SC/ST, Bhojpur at Ara in connection with Koilwar P.S. Case No. 276 of 2020 registered under Sections 302 and 34 of Indian Penal Code, Section 27 of the Arms Act and Section 2(v) of the 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 not named in F.I.R. and is in custody since 16.03.2022.

6. The allegation against the appellant is to be involved in a fight between two group, in which the bullet fired by co-accused, namely, Bhuwar Rai hit the informant's brother, who died on the spot.

7. Learned counsel for the appellant submitted that appellant is not named in the F.I.R., where informant is the eye witness of the occurrence. It is submitted that name of the appellant surfaced on the basis of named co-accused, Bhuwar Rai, who has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 659 of 2021 dated 02.08.2021 and furthermore, it is submitted that specific allegation is against co-accused, namely, Bhuwar Rai. It is submitted that implication of the appellant in the present case is only due to his criminal antecedents, which is of 17 cases and in most of the cases, name of the appellant surfaced on the basis of confessional statement, as of the present case. 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 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 duly assisted by learned counsel for the informant, while opposing the prayer of bail, fairly conceded that specific allegation is against co-accused, namely, Bhuwar Rai to fire upon the brother of the informant.

10. In view of the facts and circumstances, as mentioned above, as nothing surfaced during the course of investigation to connect the appellant with the present occurrence, where specific allegation is made out against the named co-accused, Bhuwar Rai 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 Koilwar P.S. Case No. 276 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 Special Judge, SC/ST (POA), Bhojpur at Ara/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 24.05.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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