

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2486 of 2022**

Arising Out of PS. Case No.-488 Year-2021 Thana- HISUWA District- Nawada

Bachandeo Sharma Son of Chandeshwar Sharma Resident of village-
Dhandhar, P.s- Wajirganj, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Dr. Sweety Kumari W/O Abhishek Raj Resident of Qwality Campus, Jagdeo Path, District- Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Abhay Kumar Roy, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

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

5 02-11-2022 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 27.06.2022 passed by the learned Exclusive Special Court, SC/ST (PoA) Act, in connection with Hisua P.S. Case No. 488 of 2021 registered under Sections 320, 120(B), 420, 467, 468, 471, 269, 270 and 189 of Indian Penal Code and Section 40 of Criminal Establishment (Registration and Regulation) Act 15 Biological Waste Management Rule and 15



Environment Protection Acts 1986, and under Section 3(2)(v) 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, but failed to join present proceedings of this Court.

5. Appellant is named in F.I.R. and is in custody since 22.04.2022.

6. The allegation against the appellant is to run an unregistered nursing home, where appellant is not even a doctor, causing death of one Lacho Devi, during the course of treatment. Informant is Medial Officer of Block-Hisua, District-Nawada.

7. Learned counsel for the appellant submitted that even by taking note of all allegations, as set out through FIR, it cannot be said that appellant committed murder rather allegation suggest offence u/s 304 of the I.P.C. It is submitted that attached doctors with nursing home were not available at the time of occurrence, and for the said reason the appellant implicated in the present case, being owner of nursing home. It is further submitted that family members of the deceased is not the complainant and for ill-motive the present false implication



initiated against this appellant by local administration. It is also submitted that face of F.I.R. is not suggesting any 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. for the State opposes the prayer of bail.

10. In view of the facts and circumstances, as mentioned above, as fact set out through FIR, negating intention to cause death, coupled with the fact that charge-sheet has been submitted, let the appellant, above named, is directed to be released on bail in connection with Hisua P.S. Case No. 488 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 Court, SC/ST Prevention of Atrocities Act, Nawada/concerned Court, subject



to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 27.06.2022 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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