

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2769 of 2022**

Arising Out of PS. Case No.-410 Year-2021 Thana- GAYA KOTWALI District- Gaya

RAJAN SAW S/o Ramchandra Saw Resident of Village- Golbagicha Gabada,
Police Station- Kotwali, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Abhinav Kumar @ Lakki Kumar S/o Awadhesh Choudhary Resident of Mohalla- Sriram Nagar Colony, Jhilganj, Nai Godam, P.S.- Kotwali and District- Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manish Kumar No2, Advocate
For the Respondent/s	:	Ms.Usha Kumari 1, Spl.P.P
For the Informant	:	Mr.Kaushal Kishore, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 07-12-2022 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 25.03.2022 passed by the learned Exclusive Special Judge, SC/ST Act, Gaya in connection with Kotwali P.S. Case No. 410 of 2021 registered under Sections 302, 337, 338, 427, 504, 506, 120(B) and 34 of Indian Penal Code and Sections 3(2)(va) 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/Informant, served upon, and duly represented.

5. Appellant is named in F.I.R. and is in custody since 09.09.2021.

6. The allegation against the appellant is to commit murder of nephew of the informant, along with other co-accused persons, due to previous enmity, which arises out of suspicion, as deceased was giving tips against co-accused Mahesh Yadav to local police as police spy.

7. Learned counsel for the appellant submitted that enmity, as per FIR, is available between co-accused, Mahesh Yadav and deceased, where appellant was implicated, for the only reason that he was the neighbor of the co-accused, Mahesh Yadav. It is submitted that allegation against the appellant is limited to hold the hand of the deceased at the time of occurrence, as per FIR, therefore, the subsequent allegation to assault with stones, is appearing false on its face. It is further submitted that allegation as regard to fatal assault is appearing very much general and omnibus, as it is alleged that assault was caused by eight (8) named co-accused persons and 20-22 not named co-accused persons, which is not appearing in



corroboration with injuries as found, during the course of post-mortem of the deceased, as only three (3) injuries were found. It is also 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 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 duly assisted by learned counsel for the informant, while opposing the prayer of bail submitted that it is a case of collective assault.

10. In view of the facts and circumstances, as mentioned above, as appellant was only alleged to hold hand of the deceased without raising any specific allegation as regard to assault, coupled with the fact that charge-sheet has already been submitted, let the appellant, above named, is directed to be



released on bail in connection with Kotwali P.S. Case No. 410 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 Judge, SC/ST (POA) Act, Gaya/concerned Court, subject to the conditions as laid down under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 25.03.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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