

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2537 of 2022

Arising Out of PS. Case No.-145 Year-2022 Thana- FATEHPUR District- Gaya

Ajay Yadav Son of Bishun Yadav Resident of Village - Kendua, P.s.- Fatehpur, Distt.- Gaya.

... .. Appellant/s

Versus

The State of Bihar

... Respondent/s

Appearance :

For the Appellant/s : Mr.Sudhir Kumar Sinha, Advocate

For the Appellant/s : Mr.Sadani Ramnar Shinde, APP
For the Respondent/s : Mr.Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 01-12-2022 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 28.06.2022 passed by the learned Exclusive Special Judge, SC/ST Act, Gaya in connection with Fatehpur P.S. Case No. 145 of 2022 registered under Sections 147, 149, 341, 323, 504, 506, 307 of IPC and Section 3(i)(r)(s) 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 named in F.I.R. and is in custody since



24.05.2022.

6. The allegation against the appellant is to assault informant and others, while equipped with axe, causing head injury, having intention to cause death due to land dispute.

7. Learned counsel for the appellant submitted that the occurrence is nothing but a free fight, where both parties received injuries and as such it cannot be said that assault was made with intention to cause death. It is further submitted that for the same set of occurrence arising out of Fatehpur P.S. Case No. 146 of 2022 was also lodged against informant and others. It is also submitted that the assault was not repeated without having any intervening circumstances, which further negating the intention to cause death. While concluding the argument, it is submitted that the act of appellant cannot be said atrocities within the meaning of Act and moreover, investigation of this case has been completed, for which charge-sheet 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. opposed the prayer of bail.

10. In view of the facts and circumstances, as occurrence



is appearing free fight 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 Fatehpur P.S. Case No. 145 of 2022 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 Act, Gaya/concerned Court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 28.06.2022 is set aside.

12. Hence, appeal is allowed.

(Chandra Shekhar Jha, J)

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