

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2681 of 2022

Arising Out of PS. Case No.-128 Year-2022 Thana- PAHARPUR District- East Champaran

1. VINAY YADAV Son of Janak Yadav Resident of Village - Kairwa Choubey Tola, P.S.- Paharpur (Malahi), District - East Champaran.
2. Santoshi Yadav Son of Janak Yadav Resident of Village - Kairwa Choubey Tola, P.S.- Paharpur (Malahi), District - East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Anchita Devi Wife of Triloki Ram R/o Village - Khairwa Choubey Tola, P.S.- Malahi, District - East Champaran.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhishek Kumar, Advocate
For the Respondent/s : Mr. Binay Krishna, Special P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 4 21-12-2022 1. Heard learned counsel for the appellants and learned Special P.P. for the State as well as learned counsel for the respondent no.2/informant, on point of admission and on merit also.
2. The appellants have preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as “the Act”) against the refusal of prayer for bail vide order dated 04.07.2022 passed by the learned Special Judge, SC/ST(POA) Act, East Champaran at Motihari in connection with Paharpur P.S. Case No.



128 of 2022 registered under Sections 147, 148, 149, 341, 323, 354(B), 427, 447, 448, 379, 380, 363, 364 and 504 of Indian Penal Code, Section 27 of the Arms Act and Section 3(1)(r)(s)(2)w(1) and 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 and duly represented.
5. The appellants are named in F.I.R. and are in custody since 09.05.2022.
6. The allegation against the appellants is to open indiscriminate firing and also to demolish the temporary house structure of the informant and during course of occurrence, kidnapped her mother-in-law and son, in order to commit their murder and also taken away cash of Rs. 40,000/- (Rupees Forty Thousand), along with other co-accused persons.
7. Learned counsel for the appellant submitted that allegation is appearing very much general and omnibus against both above-named appellants. During course of argument, learned counsel for the appellants pointed out, paragraph No. 52 and 53 of the case diary, suggesting that



both alleged victim were available at their home and this is not a case of kidnapping, as same has been stated specifically by independent witnesses, who were examined during course of investigation, while recording their statement under Section 161 of the Cr.P.C. It is also pointed out that both parties are in inimical terms, as enmity arises out of land disputes. It is also pointed out that prior to this occurrence, the DCLR, Areraj, East Champaran vide order dated 25.08.2021, dismissed Mutation Appeal Case No. 05/20-21 preferred by informant, regarding the properties on which the temporary structure was alleged to be made and which was subsequently alleged to be destroyed by the appellants and other co-accused persons. It is also submitted that from the face of FIR, it cannot be said that act of appellants is an atrocities, within the meaning of Act. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellants 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 Respondent No.2/Informant, while opposing prayer for bail, submitted that there is specific allegation against both of these appellants to kidnap, mother-in-law and son of the informant, as also supported by their statement, while recording statement under Section 164 of the Cr.P.C.

10. In view of the submissions, as made above and by taking note of statement of independent witnesses, as surfaced, during course of investigation, where, both of the appellants are in custody since 09.05.2022 coupled with the fact that charge-sheet has been submitted, let both the appellants, above named, are directed to be released on bail in connection with Paharpur P.S. Case No. 128 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST(POA) Act, East Champaran at Motihari, subject to conditions, as mentioned under Section 437(3) of the



Cr.P.C.

11. Accordingly, impugned order dated 04.07.2022 is set aside.
12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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