

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2871 of 2022

Arising Out of PS. Case No.-210 Year-2022 Thana- VAISHALI District- Vaishali

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1. Jagesar Sahani Son Jahuri Sahani Resident of Village - Afajalpur, P.s.- Vaishali (Belsar OP), Distt.- Vaishali.
 2. Ravi sahani son of jahuri sahani resident of village - afajalpur, p.s.- Vaishali (Belsar OP), Distt.- Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar
2. Bechan Paswan Son of Late Dewan Paswan Resident of Village - Afajalpur, P.s.- Vaishali (Belsar OP), Distt.- Vaishali.

... .. Respondent/s

Appearance :

For the Appellant	:	Mr.Bela Singh, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 14-12-2022 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 19.07.2022 passed by the learned Special Judge, SC/ST Act, Vaishali at Hajipur in connection with Vaishali (Belsar O.P.) P.S. Case No.210 of 2022 registered under Sections 147, 148, 149, 341, 323, 302, 385, 354, 504 and 506 of the Indian Penal Code and Sections 3(i)(r), 3(i)(w), 3(2)(va) of



the Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. Notice served upon and informant is duly represented.

5. Appellant is named in F.I.R. and is in custody since 11.06.2022.

6. The allegation against the appellant is to commit murder of daughter of informant alongwith other co-accused persons/family members/relatives as son of co-accused, namely Meghnath Sahani married with daughter of informant/deceased, who is member of Schedule Caste community.

7. Learned counsel for the appellant submitted that thrust of allegation is available against co-accused, namely Rakesh Kumar, who is the husband of deceased. It is submitted that petitioner no.1 is grandfather of main accused Rakesh Kumar, whereas, petitioner no.2 is cousin grandfather, having no connections with daily and domestic affairs of deceased and her husband. It is also submitted that allegation against both appellants is limited to abuse by caste name, which is also appearing very much general and omnibus. It is also submitted that if the allegation as raised through F.I.R. be accepted on its



face, then certainly the number of injuries must be noticed upon deceased, whereas same is appearing absent as per post mortem report, creating a doubt over allegations as raised through F.I.R. 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 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 for the bail conceded that allegations as regard to assault against these appellants is appearing very much general and omnibus as per F.I.R.

10. In view of the facts and circumstances, as mentioned above, as thrust of allegation is available against the husband of deceased, namely Rakesh Kumar where both



appellant are grandfather and cousin grandfather having general and omnibus allegation being family members/relative coupled with the fact chargesheet has been submitted, let both above named appellants, are directed to be released on bail in connection with Vaishali (Belsar O.P.) P.S. Case No.210 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 Special Judge, SC/ST Act, Vaishali at Hajipur/concerned Court, subject to the conditions, as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 19.07.2022 is set aside.

12. Hence, appeal is allowed.

(Chandra Shekhar Jha, J)

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