

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3115 of 2022**

Arising Out of PS. Case No.-108 Year-2021 Thana- GAUTAMBUDHNAGAR District-
Siwan

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Sri Prakash Tiwari @ Shri Tiwary S/o Awadhesh Tiwari @ Avadhesh Tiwari
R/o village- Bharatpura, P.S.- G.B. Nagar, District- Siwan

... .. Appellant/s

Versus

1. The State of Bihar
2. Hari Kisun Ram S/o Late Foddar Ram R/o village- Nathanpura, P.S.- G.B. Nagar, District- Siwan

... .. Respondent/s

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Appearance :

For the Appellant	:	Mr. Bijay Prakash Singh, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 21-12-2022 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 05.07.2022 passed by the learned Ist Additional and Sessions Judge-cum-Special Judge, Siwan, in connection with G.B. Nagar P.S. Case No.108 of 2021 registered under Sections 302, 201, and 34 of the Indian Penal Code and Section 3(2)(v) of the Act.

3. Present appeal is well within limitation as



prescribed under Section 14A(3) of the Act.

4. It is submitted by learned Special P.P. that information has been given to the informant in terms of the order dated 02.11.2022, but failed to join the present proceedings.

5. Appellant is not named in F.I.R. and is in custody since 26.02.2022.

6. As per F.I.R., son of the informant was taken away by one, Dinesh Tiwari on his motorcycle, where on next day an information was received by informant that his son is lying dead near a pond.

7. Learned counsel for the appellant submitted that appellant is not named in the F.I.R. and his name surfaced on the basis of confessional statement of co-accused, namely Dinesh Tiwari, where in furtherance of no incriminating material recovered/surfaced during the course of investigation, which may connect the appellant with the present occurrence/murder. It is further pointed out that similarly situated co-accused, namely Om Prakash Tiwari, has already been granted bail by one of the learned Co-ordinate bench of this Court through Cr. Appeal (SJ) No.4842 of 2021 vide order dated 18.08.2022. 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, while opposing the prayer for bail fairly conceded that appellant is not named in the F.I.R.

10. In view of the facts and circumstances, as mentioned above, as nothing incriminating surfaced during the course of investigation, in furtherance of the confessional statement of co-accused, where appellant is in custody since 26.02.2022 coupled with the fact chargesheet has been submitted, let the appellant, above named, is directed to be released on bail in connection with G.B. P.S. Case No.108 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 Ist Additional Sessions Judge-cum-Special Judge, Siwan/concerned Court, subject to the conditions, as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 05.07.2022 is set aside.

12. Hence, appeal is allowed.

(Chandra Shekhar Jha, J)

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