

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4539 of 2021**

Arising Out of PS. Case No.-224 Year-2020 Thana- AMAS District- Gaya

Kailu Yadav @ Akhlesh Kumar @ Akhlesh Yadav Son of Vinod Yadav @
Binod Yadav Resident of Village - Moraniya, P.S. - Amas, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Legal heirs of deceased informant- Dablu Bhaiya Son of Late Pairu Rikiyasan Resident of village- Moraniya, P.s.- Amas, District- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mrigendra Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

4 14-07-2022 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 22.10.2021 passed by the learned Special Judge, SC/ST, Gaya in connection with Amas P.S. Case No. 224 of 2020 registered under Sections 341, 323, 325, 379, 504, 506 and 34 of Indian Penal Code, Sections 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, but failed to appear.

5. Appellant is named in F.I.R. and is in custody since 27.08.2021.

6. The allegation against the appellant is to outrage the modesty of daughter-in-law of the informant and also to assault the informant and his family members, alongwith other co-accused persons.

7. Learned counsel for the appellant submitted that the present F.I.R. is lodged after delay of seven days without any just explanation. It is submitted that the allegation against the appellant is only ornamental to make allegations more serious in nature. It is also submitted that the allegation against the appellant is general and omnibus. It is submitted that there is no abuse by caste name, as such, it cannot be said that the alleged overt act of the appellant attracts atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellant is a man of clean antecedent and, moreover, 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 of bail, fairly conceded that the allegation, as regard to assault, is against co-accused, namely, Pankaj Kumar Yadav.

10. Considering the facts and circumstances, as mentioned above, as allegation against the appellant is not of assault or to abuse, which may attract, *prima facie*, atrocities coupled with the fact that chargesheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Amas P.S. Case No. 224 of 2020 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 (POA) Act, Gaya, subject to the following conditions:

“(i) Appellant shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the



Trial Court, only on medical ground of the appellant, duly supported by the documents.

(ii) That one of the bailors shall be Vinod Yadav @ Binod Yadav, who is the father of the appellant and deponent of the present appeal.”

11. Accordingly, impugned order dated 22.10.2021 is set aside.

12. Hence, appeal stands allowed.

13. The physical appearance of I/O of this case before this Court is dispensed with.

(Chandra Shekhar Jha, J)

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