

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4676 of 2021

Arising Out of PS. Case No.-201 Year-2021 Thana- SIRDALA District- Nawada

Shashi Kant Kumar Son of Ranjeet Prasad Resident of Village - Babhni, P.s.-
Sirdalla, Distt.- Nawada.

... .. Appellant/s

Versus

1. The State of Bihar through the Special Public Prosecution, SC and ST Act.
Bihar
2. Uday Paswan Rajendra Paswan Resident of Village-Babhni,P.S.-
Sirdalla,District-Nawadah

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arun Kumar, Advocate

For the Respondent/s : Ms. Usha Kumari 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 04-08-2022 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 27.10.2021 passed by the learned Special Judge
(SC & ST) (Prevention of Atrocities) Act-cum-Additional
District and Sessions Judge-I, Nawada in connection with
Sirdalla P.S. Case No. 201 of 2021 registered under Sections
147, 149, 323, 307 and 448 of 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. 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 10.09.2021.

6. The allegation against the appellant is to assault the informant and family members, alongwith other co-accused persons, equipped with deadly weapons like rod, lathi etc., with intention to cause death, in the background of previous enmity.

7. Learned counsel for the appellant submitted that the occurrence is nothing but a free fight between the parties, where it is very difficult to gather the intention to cause death. It is submitted that for the same set of occurrence, a counter case was lodged against the appellant i.e., Sirdalla P.S. Case No. 205 of 2021. It is submitted that in the present set of occurrence, both the parties received injuries. It is submitted that assault was not repeated without having any intervening circumstances, which further suggest that appellant was not under intention to cause death. It is further submitted that statement of the injured, namely, Chandani Kumari, u/s 161 of the Cr.P.C. was not recorded, alleged to be assaulted by this appellant, during the course of investigation and also the injured is not a chargesheeted witness. It is submitted that it cannot be gathered



from plain reading of the F.I.R., whether, act of the appellant suggest 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 already 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 occurrence was a free fight.

10. Considering the facts and circumstances, as mentioned above, as the occurrence was a free fight between the parties, where assault was not repeated, without having any intervening circumstances coupled with the fact that appellant is a man of clean antecedent where chargesheet has been submitted without examination of alleged injured during the course of investigation, let the appellant, above named, is directed to be released on bail in connection with Sirdalla



P.S. Case No. 201 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 Special Judge-cum-Additional Sessions Judge-1st, Nawada/concerned Court, 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 Ram Lakhan Prasad, who is the deponent of the present appeal.”

11. Accordingly, impugned order dated 27.10.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

Ankit/-

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