

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4779 of 2021

Arising Out of PS. Case No.-328 Year-2003 Thana- LAKHISARAI District- Lakhisarai

BAHADUR YADAV @ BAHURA @ JITENDRA YADAV @ BAHOR
YADAV Son of Late Chandu Yadav Resident of Village - Bihroua, P.s.-
Lakhisarai, Distt.- Lakhisarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. UMESH MANJHI Son of late lakhan Manjhi Resident of Village - Bihroua,
P.s.- Lakhisarai, Distt.- Lakhisarai.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Raj Krishan Jha, Advocate
For the Respondent/s : Ms. Usha Kumari 1, Special P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 3 18-08-2022 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, 1989
(hereinafter referred to as the “SC/ST Act”) against the
refusal of prayer for bail vide order dated 02.11.2021
passed by the learned 1st Additional Sessions Judge-cum-
Special Judge, SC/ST(POA) Act, Lakhisarai in
connection with Lakhisarai P.S. Case No. 328 of 2003
registered under Sections 302/34 of Indian Penal Code ,



Section 27 of the Arms Act and Section 3/4 of SC/ST Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.
4. Notice could not serve, as respondent no.2 was not residing at the place of given address.
5. The appellant is named in F.I.R. and is in custody since 08.09.2021.
6. The allegation against the appellant is to commit murder of father of the informant along with other co-accused persons by using firearms.
7. Learned counsel for the appellant submitted that the informant is the eye-witness of the occurrence, who specifically named the co-accused, namely, Birju Yadav to make a fire heating chest of his father, causing his death. It is also submitted that no overt act is attributed to this appellant towards commission of the alleged offence. It is also submitted that appellant is a man of clean antecedent, who has been implicated in this case for previous enmity arises over engagement of informant and family as a labour. It is also submitted that from bare perusal of FIR, it appears that there is no overt act against the appellant, which attracts atrocities within the meaning



of the 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 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 Respondent No.2/Informant, while opposing prayer for bail, fairly conceded the fact that specific allegation of firing is against co-accused, namely, Birju Yadav.

10. In view of the submissions, as made above, as the allegation against this appellant is very much general and omnibus, where specific allegation of firing is against co-accused, namely, Birju Yadav coupled with the fact that the charge-sheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Lakhisarai P.S. Case No. 328 of 2003 on furnishing bail bond of Rs.10,000/- (Rupees Ten



Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST(POA) Act, Lakhisarai, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 02.11.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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