

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4797 of 2021**

Arising Out of PS. Case No.-170 Year-2021 Thana- AANDAR District- Siwan

=====

BADAL KUMAR CHAUBEY @ BADAL PANDEY Son of Munna chaubey
@ Munna Pandey Resident of Village - Amnaura, Police Station - Ander,
District - Siwan.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Munni Lal Gond Son of Late Ramadhar Gond Resident of Village -
Amnaura, Police Station - Ander, District - Siwan.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Raghav Prasad, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, Special P.P.
For the Informant	:	Mr. Arbind Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- | | | |
|---|------------|--|
| 4 | 21-07-2022 | <ol style="list-style-type: none">1. Heard learned counsel for the appellant and learned
Special P.P. for the State as well as learned counsel for the
respondent no.2/informant, 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 22.11.2021
passed by the learned Additional Sessions Judge-I-cum-
Special Judge, Siwan, in connection with Andar P.S. Case
No. 170 of 2021 registered under Sections 341, 323, 324, |
|---|------------|--|



504, 506 and 34 of Indian Penal Code and Section 3(i)(r) (s) of SC/ST 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 and duly represented.
5. The appellant is named in F.I.R. and is in custody since 22.11.2021.
6. The allegation against the appellant is to commit assault the informant and family members by abusing caste name, equipped with dangerous weapon like *lathi*, *rod*, *farsa*, etc. with intention to cause death.
7. Learned counsel for the appellant submitted that the dispute is founded over neighborhood dispute and differences. It is submitted that allegation as regard to assault is very much general and omnibus in nature against the appellant. It has further been submitted that though injury received in furtherance of assault caused by the appellant is grievous in nature, but same is single and is not in corroboration with the assault alleged to be caused. It has further been submitted that assault is not repeated without intervening circumstances, negating



thereby the intention to cause death. It has further been 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. It has further been submitted that appellant is a man of clean antecedent. While concluding the argument, it has been 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 the injury is simple in nature, as per injury report.
10. In view of the submissions, as made above, as the allegation as regard to assault against the appellant is not repeated without intervening circumstances, appellant is a



man of clean antecedent 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 Andar P.S. Case No. 170 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 Additional Sessions Judge-I-cum-Special Judge, Siwan/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 Rita Devi, who is the deponent of the present appeal.”

11. Accordingly, impugned order dated 22.11.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

S.Katyayan/-

U		T	
---	--	---	--

