

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.283 of 2022**

Arising Out of PS. Case No.-143 Year-2021 Thana- DINARA District- Rohtas

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1. Daya Shankar Tiwary @ Chhotak Tiwary Son of Late Yamuna Tiwary Resident of Village- Takanpura, P.S.- Surajpura, District- Rohtas.
 2. Raja Ram Singh Son of Mahesh Singh @ Ravi Nandan Singh Resident of Village- Badki Agrer, P.S.- Suryapura, District- Rohtas.

... .. Appellant/s

Versus

1. The State of Bihar
2. Jitendra Kumar Ram Kameshwar Ram Resident of Village-Karanj,P.S- Dinara,District-Rohtas

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ambuj Nayan Chaubey, Advocate
For the State	:	Mr. Binay Krishna, APP
For the Informant	:	Mr. Rakesh Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 3 04-08-2022 1. Heard learned counsel for the appellants, learned Special P.P. for the State and learned counsel for the informant, on point of admission and on merit also.
2. The appellants have 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 15.11.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Rohtas at Sasaram in connection with Dinara P.S. Case No. 143 of 2021 registered under Sections 302, 147, 148, 149, 341, 323, 504 and 506 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 and duly represented.

5. Appellants are not named in F.I.R. and are in custody since 05.08.2021.

6. The allegation against the appellants is to commit the murder of brother of the informant, alongwith other co-accused persons, equipped with deadly weapons and fire arms, in the background of land dispute.

7. Learned counsel for the appellants submitted that the appellants are not named in the F.I.R. and the maximum allegations against both the appellants is to be a part of the mob only. It is submitted that name of both the appellants surfaced during the course of investigation from the statement of the informant, which only suggest afterthought. It is submitted that specific allegation, as regard to fire upon the deceased, is



against co-accused, namely, Sanjay Singh. It is submitted that no overt act, as regard to assault, is attributed to these appellants. It is submitted that nothing surfaced from bare perusal of the F.I.R., which may, on its face, suggest that the act of appellants 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 already been submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellants 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 informant, while opposing the prayer of bail, fairly conceded that appellants are not named in the F.I.R. and allegation against the appellants is very much general and omnibus.

10. In view of the facts and circumstances, as mentioned above, as both the appellants are not named in the F.I.R., having very much general and omnibus allegation, being



a part of the mob only coupled with the fact that chargesheet has already been submitted, let both the appellants, above named, are directed to be released on bail in connection with Dinara P.S. Case No. 143 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Rohtas at Sasaram/concerned Court, subject to the following conditions:

“(i) That accused/appellants shall not involve in the similar nature of offence till the conclusion of trial, failing which the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the appellants.

(ii) That appellants 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 appellants, duly supported by the documents.

(iii) That one of the bailors shall be



Uma Shankar Tiwari, who is the deponent of
the present appeal.”

11. Accordingly, impugned order dated 15.11.2021 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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