

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4844 of 2021**

Arising Out of PS. Case No.-189 Year-2019 Thana- DARBHANGA SADAR District-
Darbhanga

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Taj Kumar Bobby @ Bobby Kapri Son of Late Bishwanath Kapri Residence
of Mohalla/Village- Laxmisagar Colony, P.S.- Lalit Narayan Mithila
University, District- Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar
2. Munna Kumar Paswan, S/o Pawan Paswan, Resident of Village-Garhiya,
P.S- Darbhanga Sadar, District-Darbhangha

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. A. K. Thakur, Senior Advocate Mr. Kedar Jha, Advocate
For the State	:	Mr. Special PP
For the Respondent No.2:	:	Mr. Gajendra Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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| 3 | 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 20.11.2021 passed by the

learned 1st Additional Sessions Judge-cum-Special Judge,

SC/ST(POA) Act, Darbhanga in connection with Sadar |
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P.S. Case No. 189 of 2021 registered under Sections 302 and 34 of Indian Penal Code, Section 27 of the Arms Act and Section 3(1)(g) 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 09.10.2021.
6. The allegation against the appellant is to commit murder the grandfather of the informant along with other co-accused persons for previous land dispute. It has also been alleged that a threat was advance in the year 2016 itself to vacant the disputed land by the appellant and other co-accused persons.
7. Learned senior counsel for the appellant submitted that from bare perusal of FIR, it can be safely gathered that informant is not the eye-witness of the occurrence as he found the appellant and other co-accused persons running away from place of occurrence. It has further been submitted that occurrence is due to land dispute, and same is an admitted position. While traveling over the



argument learned senior counsel submitted that after investigation, the appellant has been exonerated but after court order, matter was re-investigated, this time charge-sheet has been submitted against the appellant, even without any incriminating / fresh material. It is submitted that one complaint is pending against the appellant, in which, he is on bail. It has further been submitted that nothing can be gathered from perusal of FIR, which may suggest atrocities within the meaning of the Act, against the appellant. While concluding the argument, it has been submitted that investigation 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, Sri Gajendra Kumar Jha, while opposing prayer for bail, submitted that there is strong evidence against the



appellant, as he was found running away by motorcycle, soon after the occurrence, but fairly conceded the fact that the informant is not the eyewitness of the occurrence. It has further been submitted that nature of injury, which is alleged to be caused by fire arms, is in full corroboration with the postmortem report of the deceased.

10. In view of the submissions, as made above, as the informant is not the eye-witness of the present occurrence and nothing incriminating material surfaced during course of re-investigation, which may connect, *prima-facie*, the appellant with the present set of occurrence 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 Sadar P.S. Case No. 189 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 1st Additional Sessions Judge-cum-Special Judge, SC/ST(POA) Act, Darbhanga, subject to the following conditions:

“(i) That appellant 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 appellant.



(ii) Accused/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.

(iii) That one of the bailors shall be Saj Kumar Nobby, who is the brother of the appellant and deponent of the present bail petition.”

11. Accordingly, impugned order dated 20.11.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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