

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.180 of 2022

Arising Out of PS. Case No.-81 Year-2021 Thana- BUXAR MUFFSIL District- Buxar

Rishikesh Rajbhar @ Rishimuni Rajbhar Son of Bhola Rajbhar Resident of Village - Barupur, P.O.- Sangraon Mangraon, P.s.- Rajpur, Dist.- Buxar, Pin Code- 802122 (Bihar)

... .. Appellant/s

Versus

1. The State of Bihar
2. Prem Chand Ram Son of Late Fauzdar Ram Resident of Village - Thudni, P.s.- Buxar (Muffassil), Distt.- Buxar (Bihar).

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhay Kumar Pandey, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 3 28-09-2022 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 20.09.2021 passed by the learned Additional District and Sessions Judge-I-cum-Special Court (SC/ST), Buxar in connection with Muffasil P.S. Case No. 81 of 2021 registered under Sections 302 and 34 of the Indian Penal Code and under Section 3(2) (v) 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



but informant failed to join present proceeding.

5. Appellant is named in F.I.R. and is in custody since 07.08.2021.

6. The allegation against the appellant is to commit murder of the son of informant, along with other co-accused persons.

7. Learned counsel for the appellant submitted that informant is not the eye witness of the occurrence, where entire allegation is based upon suspicion, as sister of one co-accused, Rahul Kumar have in relation with the appellant. It is further submitted that appellant is a man of clean antecedent and moreover, nothing surfaced during the course of investigation to connect this appellant with present occurrence, save and except self-confession. It is further pointed out that nothing can be gathered on the face of F.I.R., which may suggest that act of appellant can be said as an atrocities within the meaning of Act. While concluding the argument, it is submitted that investigation is completed, for which, charge-sheet is 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 informant is not the eye witness of



the occurrence.

10. In view of the facts and circumstances, as mentioned above, as informant is not the eye witness of the occurrence, where maximum allegation appears as of “last seen”, along with other co-accused persons, let the appellant, above named, is directed to be released on bail in connection with Muffasil P.S. Case No. 81 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 District and Sessions Judge-I-cum-Special Court, SC/ST Act, Buxar/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 20.09.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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