

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.19 of 2022

Arising Out of PS. Case No.-87 Year-2021 Thana- AHIYAPUR District- Muzaffarpur

RAHUL KUMAR Son of Tejan Paswan Resident of Village - Sipahpur Bara
Jagarnath, P.s.- Ahiyapur, Distt.- Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Raju Paswan Son of Late Mangal Paswan Resident of Village - Bara
Jagarnath, P.s.- Ahiyapur, Distt.- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Parasmani, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Special 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, 1989
(hereinafter referred to as “the Act”) against the refusal of
prayer for bail vide order dated 30.09.2021 passed by the
learned Additional Sessions Judge-III-cum-Special Judge
SC/ST (POA) Act, Muzaffarpur in connection with
Ahiyapur P.S. Case No. 87 of 2021 registered under
Sections 302, 201 and 34 of Indian Penal Code and



Section 3(i)(r) (s), 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, but informant failed to join the present proceeding.
5. The appellant is named in F.I.R. and is in custody since 07.02.2021.
6. The allegation against the appellant is to commit murder of son and nephew (*bhanja*) of the informant, along with other co-accused persons for previous enmities.
7. Learned counsel for the appellant submitted that informant is not the eye-witness of the present occurrence and the entire allegation is on the basis of suspicion. It is further submitted that maximum allegation, as it appears from bare perusal of FIR is that both the deceased joined appellant and other co-accused persons for a birthday party. It is also submitted that similarly situated co-accused person, namely, Arun Kumar @ Arun Rai has already been granted bail by one of the learned co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 2277 of 2022 dated 27.07.2022. It is also submitted that



the act of the appellant cannot be said atrocities within meaning of 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, while opposing prayer for bail, fairly conceded the fact that the informant is not the eye-witness of the present occurrence.

10. In view of the submissions, as made above, as the informant is not the eye-witness of the present occurrence, where, nothing incriminating surfaced during course of investigation to connect this appellant coupled with the fact that charge-sheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Ahiyapur P.S. Case No. 87 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-III-cum-Special Judge SC/ST (POA) Act, Muzaffarpur/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 30.09.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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