

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.538 of 2023

Arising Out of PS. Case No.-17 Year-2022 Thana- BISFI District- Madhubani

Naresh Yadav Son Of Sukhdeo Yadav R/V- Nahas Rupauli West Bari, P.S.-
Bisfi (Patauna) District- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Dinesh Baitha Son Of Late Jageshwar Baitha R/V- Kumhrauli, P.S.-
Kamtaul, District- Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Gagan Dev Yadav, Advocate
	:	Mr. Ravi Prakash, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 28-07-2023 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 08.02.2022 passed by the learned Additional Sessions Judge-Ist-cum-Special Judge, Madhubani in connection with Bisfi (Patauna) P.S. Case No.17 of 2022 registered under Sections 341, 323, 307, 448 and later on Section 302 of the Indian Penal Code.

3. Present appeal is well within limitation as



prescribed under Section 14A(3) of the Act.

4. It is submitted by learned Special P.P. that information has been given to the informant, in terms of the order dated 23.06.2023 about the present Court proceedings, where informant failed to join the present proceedings.

5. Appellant is named in F.I.R. and is in custody since 05.02.2022.

6. The allegation against the appellant is to assault the nephew of the informant by means of *lathi*/wooden stick etc., causing head and bodily injuries, where occurrence arises out of previous money transaction for a loan of Rs. 4,000/-.

7. Learned counsel for the appellant submitted that though informant raised specific allegation through F.I.R. but during the course of investigation, mother of injured/deceased who also appears to be an eye-witness of the occurrence raised general and omnibus allegation of assault. It is further submitted that independent witnesses during the course of investigation named this petitioner in para no. 30 & 31 of the case diary and also named the wife of this appellant as one of the assailants causing death of the nephew of the informant. It is also submitted that nothing surfaced during the course of investigation, which may, on its face, suggest that the act of



appellant attract atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellant is a man of clean antecedent and moreover, investigation in this case is complete for which chargesheet has 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. appearing on behalf of State, while opposing the prayer of bail submitted that informant is an eye-witness of the occurrence and there is no reason to doubt his version, who raised specific allegation against appellant to cause head injury leading his death. It is also submitted that independent witness namely Chandni Devi, also supported specific allegation, *qua*, physical assault against this appellant, while recording her statement under Section 161 of the Cr.P.C. during the course of investigation. It is further submitted that postmortem report appears in full corroboration, *qua*, the manner of assault as alleged through present F.I.R., where cause of death appears 'haemorrhage shock and its complications',



resulting from head injuries.

10. In view of the facts and circumstances, as mentioned above, as specific allegation is available against appellant causing head injury to nephew of the informant leading to his death, this Court at present, is not inclined to grant bail to the appellant.

11. Accordingly, the prayer of bail of the appellant is rejected herewith.

12. Hence, appeal stands dismissed.

13. Learned Trial Court is directed to conclude trial within specified time as mentioned under Section 14A(3) of the Act.

14. Superintendent of Police, Madhubani is directed to ensure the presence of charge-sheeted witnesses, as and when directed by the learned Trial Court, for expeditious disposal of trial as specified under Section 14A(3) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

(Chandra Shekhar Jha, J.)

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