

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1046 of 2023

Arising Out of PS. Case No.-219 Year-2020 Thana- BUXAR INDUSTRIAL District- Buxar

Toukir Khan @ Idani, Son of Bhola Khan @ Nasir Khan, R/v- Sarimpur, P.S.-
Buxar (Industry), District- Buxar

... .. Appellant

Versus

1. The State of Bihar
2. Santosh Kumar Ram, Son of Shri Yugal Kishore Ram, R/v- Barki Sarimpur,
P.S.- Buxar (Industry), District- Buxar

... .. Respondents

Appearance :

For the Appellant/s : Mr. Anand Kumar Ojha, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 14-07-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

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') for setting aside the impugned order dated 20.01.2023 passed by the learned A.D.J.-1st-cum-Special Judge, SC/ST (POA) Act and Children Court, Buxar in connection with SC/ST Case No.142 of 2020 arising out of Buxar (Industry) P.S. Case No.219 of 2020 registered for the offences punishable under Sections 302, 504, 506 read with 34 of the Indian Penal Code, Section 27 of the Arms Act as well as Sections 3(1)(r)(s) & 3(2)(v) of the Act.



3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. Notice was issued vide order dated 23.06.2023 by this Court regarding present proceedings in terms of Section 15-A(2) of the Act to the informant.

5. It is submitted by learned Special Public Prosecutor that information already given to informant in terms of aforesaid order but, he failed to join the present proceeding.

6. Accused/appellant is not named in the FIR and is in custody since 09.02.2021.

7. Allegation against the appellant is to commit murder of son of informant along with other named co-accused persons out of previous enmity.

8. It is submitted by learned counsel that name of appellant surfaced during the course of investigation on the basis of confessional statement of co-accused, namely, Mumtaz Khan, where in furtherance of, no incriminating material recovered/surfaced as to connect appellant with present occurrence of murder. It is submitted that said co-accused, Mumtaz Khan has already granted bail by one of the learned co-ordinate Bench of this Court vide order dated 08.09.2021 as passed in Cr. Appeal (SJ) No.3010 of 2021. It is submitted that



nothing surfaced during the course of investigation, which may suggest that the act of appellant can be said an atrocities within the meaning of Act as to cause present occurrence. While concluding argument, it is submitted that appellant found involved in five more criminal cases, where he is on bail and moreover investigation of this case has been completed for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

9. 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]***.

10. Learned Special Public Prosecutor while opposing the prayer for bail of the appellant submitted that appellant was actively participated in occurrence.

11. In view of above-mentioned facts and circumstances and by taking note of fact as save and except suspicion out of confession of co-accused, nothing appears incriminating against the appellant during the course of investigation as to connect him *prima facie* with present occurrence of murder, coupled with the fact that charge-sheet



has already submitted, where appellant is in custody since 09.02.2021, accordingly, the appellant, above-named, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned A.D.J.-1st-cum-Special Judge, SC/ST (POA) Act and Children Court, Buxar in connection with SC/ST Case No.142 of 2020 arising out of Buxar (Industry) P.S. Case No.219 of 2020, subject to the conditions as laid down under Section 437(3) of the CrPC.

12. Accordingly, the impugned order dated 20.01.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

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