

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1647 of 2023

Arising Out of PS. Case No.-356 Year-2022 Thana- RAJGIR District- Nalanda

Prashant Kumar, Son of Krishnadeo Singh, Resident of Shivpuri, Ward No.- 9, Behind B.S.N.L. Tower Arariya, P.S. and District - Araria at present resident of Markswadi Nagar, P.S.- Rajgir, District - Nalanda

... .. Appellant

Versus

1. The State of Bihar
2. Reeta Kumari, Wife of Prahlad Chaudhary, Resident of Village - Tajpur, P.S.- Roh, District - Nawada at present resident of Marksadi Nagar, P.S.- Rajgir, District - Nalanda.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Pankaj Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.
For the Informant	:	Mr. Saroj Kumar Chaudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 28-07-2023 The matter is taken on Board today, as date fixed earlier vide order dated 21.07.2023 was inadvertently typed as 28.08.2023 instead of 28.07.2023.

Heard learned counsel for the appellant, learned Special Public Prosecutor for the State and learned counsel appearing on behalf of the informant.

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 06.03.2023 passed by the learned Additional District and Sessions Judge-III-cum-Special



Judge, SC/ST, Biharsharif, Nalanda in connection with SC/ST Case No.144 of 2022 arising out of Rajgir P.S. Case No.356 of 2022 registered for the offences punishable under Sections 341, 323, 406, 420, 504, 506 read with 34 of the Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(va) of the Act.

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

4. Learned counsel for the informant duly represented his case *suo motu*.

4. Accused/appellant is named in the FIR and is in custody since 08.02.2023.

5. Allegation against the appellant is to cheat Rs. 7,50,000/- from the informant on false pretext of securing service, where nature of service is not explained through FIR.

6. It is submitted by learned counsel appearing on behalf of the appellant that appellant has been falsely implicated with present case out of local dispute and differences, where present FIR was lodged with a delay of six months without having any just explanation. It is submitted that narration of FIR is not suggesting any nature of job, where payment as alleged made through cash and is not appearing through any instrument in support of allegation. It is further submitted that nothing



surfaced during the course of investigation, which may suggest that 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 two more criminal cases 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.

7. 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]***.

8. Learned Special Public Prosecutor duly assisted by Mr. Saroj Kumar Chaudhary, learned counsel for the informant while opposing the prayer for bail of the appellant submitted that the allegation regarding cheating is specifically available against this appellant who is also involved in two more criminal cases and appears a habitual offender.

9. In view of above-mentioned facts and circumstances and by taking note as present FIR was lodged with a delay of six months without having any just explanation, coupled with the fact that charge-sheet has already submitted,



where appellant is in custody since 08.02.2023, accordingly, the appellant, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-III-cum-Special Judge, SC/ST, Nalanda at Biharsharif in connection with Special Case No.144 of 2022 arising out of Rajgir P.S. Case No.356 of 2022, subject to the conditions as laid down under Section 437(3) of the CrPC and with further conditions:-

(i) That appellant shall not involve in similar nature of criminal case 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) That appellant shall co-operate 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 petitioner duly supported by the documents.

(iii) That one of the bailors shall be deponent of the present bail petition.

Learned Trial Court is directed to verify the criminal antecedent of the appellant and if he found involved in more than two cases i.e. Araria P.S. Case No.135 of 2020 and Rajgir



P.S. Case No.214 of 2021, his bail bond shall not be accepted.

10. Accordingly, the impugned order dated 06.03.2023 is set aside.

11. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

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