

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1740 of 2023

Arising Out of PS. Case No.-1 Year-2023 Thana- SC/ST District- Buxar

Abhishek Kumar @ Banti Pandey, S/o Satish Das Pande @ Prem Pandey, R/o Vill- Gurudas Mathia, Sondhila, P.S- Buxar(M), Distt- Buxar.

... .. Appellant

Versus

1. The State of Bihar
2. Madan Ram, S/o Late Badri Ram, R/o Vill- Gurudas Mathiya, P.S- Buxar (M), Distt.- Buxar.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Rajiv Ranjan Kr. Pandey, 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 22.03.2023 passed by the learned Additional Sessions Judge-1-cum-Special Judge, SC/ST (POA) Act and Children Court, Buxar in connection with Buxar SC/ST P.S. Case No.1 of 2023 registered for the offences punishable under Sections 147, 148, 149, 324, 341, 379, 354, 307, 504 of the Indian Penal Code and Sections 3(1)(r)(s) & 3(2)(va) of the Act but, late on, Section 302 of the Indian Penal



Code was added in the FIR.

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 named in the FIR and is in custody since 28.02.2023.

7. Allegation against the appellant is to commit murder of informant/injured along with other co-accused persons by causing bodily and head injuries by means of using iron rod and butt of pistol, where occurrence is arises out of previous enmity.

8. It is submitted by learned counsel that the allegation as regard to cause assault is appearing very much general and omnibus against appellant. It is submitted that if appellant having intention to cause death of informant/injured then certainly, he had to open fire upon informant having all occasion, as he was alleged to equipped with firearms but,



allegation is to cause assault by means of butt of pistol, which *prima facie* negate “intention to cause death”. It is submitted that similarly situated co-accused persons have already granted bail by one of the learned co-ordinate Bench of this Court vide order dated 06.07.2023 passed in Cr. Appeal (SJ) No.1559 of 2023. It is 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 is a man of clean antecedent 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 there is specific allegation to cause head injuries against this appellant but, he fairly conceded that alleged assault was caused by butt



of pistol/firearm.

11. In view of above-mentioned facts and circumstances and by taking note of fact as alleged assault caused by appellant was made by butt of pistol, negating *prima facie* his intention to cause death, coupled with the fact that charge-sheet has already submitted, where appellant is in custody since 28.02.2023, 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-1-cum-Special Judge, SC/ST (POA) Act and Children Court, Buxar in connection with Buxar SC/ST P.S. Case No.1 of 2023, subject to the conditions as laid down under Section 437(3) of the CrPC.

12. Accordingly, the impugned order dated 22.03.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

Sanjeet/-

U		T	
---	--	---	--

