

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1943 of 2023

Arising Out of PS. Case No.-159 Year-2022 Thana- KATIHAR MUFFASIL District- Katihar

Thappu Kharwar @ Dilip Kharwar, S/o Baiju Kharwar @ Baijnath Kharwar
Resident of Village-Naya Tola, Brahamchhari, P.S.-Mufassil (Katihar),
Distirct- Katihar.

... .. Appellant

Versus

1. The State of Bihar
2. Gudri Munda, S/o Sukhdeo Munda, Resident of Village-Naya Tola, Brahamchhari, P.S.- Muffasil (Katihar), District- Katihar.

... .. Respondents

Appearance :

For the Appellant	:	Mr. Pawan Kumar Singh, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. P.P.
For the Informant	:	Mr. Suresh Prasad Sah, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 14-07-2023 Heard learned counsel for the appellant, learned Special Public Prosecutor for the State and learned counsel for 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 01.04.2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Katihar in connection with Katihar (Mufassil) P.S. Case No.159 of 2022 registered for the offences punishable under Sections 323, 341, 326, 307, 379, 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. 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, served upon and duly represented.

6. Accused/appellant is named in the FIR and is in custody since 01.12.2022.

7. Allegation against the appellant is to assault father of informant by inflicting repeated knife injuries along with other co-accused persons, where occurrence is arises out of previous enmity.

8. It is submitted by learned counsel that appellant has been falsely implicated with present case out of previous enmity and if narration of FIR be taken into consideration then certainly, maximum allegation as appears against the appellant is to hold the injured during the course of occurrence, whereas the specific allegation to inflict repeated knife injuries are



available against co-accused, Dilip Kharwar, son of Deepak Kharwar @ Dukhna and one Nitesh Kharwar. 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 duly assisted by Mr. Suresh Prasad Sah, learned counsel for the informant, while opposing the prayer for bail of the appellant, submitted that appellant was actively participated in occurrence by holding the injured during the course of occurrence.

11. In view of above-mentioned facts and circumstances, as specific allegation to cause repeated knife injuries is not available against this appellant, where allegation



is limited to hold the son of informant/injured during the course of occurrence, coupled with the fact that charge-sheet has already submitted, where appellant is in custody since 01.12.2022, 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 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Katihar in connection with Katihar (Mufassil) P.S. Case No.159 of 2022, subject to the conditions as laid down under Section 437(3) of the CrPC.

12. Accordingly, the impugned order dated 01.04.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

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