

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2219 of 2023

Arising Out of PS. Case No.-132 Year-2018 Thana- GAYA KOTWALI District- Gaya

DEEPAK SONAR @ DEEPAK KUMAR son of Arun Prasad Mohalla- Pawai
Ps- Muffasil Dist- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Uma Devi wife of Late Rajendra Rai Village- Tel Bigha, Dom Toil Ps- Kotwali Dist- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Priya Ranjan, Advocate

For the Respondent/s : Ms. Usha Kumari 1, Special P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 14-07-2023 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, 1989 (hereinafter referred to as “the Act”) against the refusal of prayer for bail vide order dated 10.04.2023 passed by the learned Exclusive Special Judge, SC/ST, Special Court, Gaya in connection with Kotwali P.S. Case No.132 of 2018 registered under Sections 302 and 120B/34 of Indian Penal Code, Section 3(2)(V)(A) of SC/ST Act and Section 27 of the Arms Act.



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

4. Learned Special P.P. submitted that information in terms of order dated 23.06.2023 was given to informant, but informant failed to appear in the present proceeding.

5. The appellant is not named in F.I.R. and is in custody since 22.05.2019.

6. The allegation against the appellant is to commit murder of son of informant along with named and unknown co-accused persons, by causing firearm injury, where, occurrence arises out of local disputes and differences.

7. Learned counsel for the appellant submitted that name of the appellant surfaced, during course of investigation, out of confessional statement of co-accused, namely, Mukesh Yadav, in furtherance of which, no incriminating material recovered/surfaced, as to connect appellant, *prima facie*, with present occurrence of murder. It is submitted that appellant found involved in 12 more criminal cases, where a suspicion arose from those criminal antecedents, being one of the reasons for false implication of appellant with present case, where, in maximum of cases, the name of appellant surfaced, on the basis of confessional statement of co-accused, as of present case,



having otherwise no bearing over the merit of the case. It is submitted that said co-accused, Mukesh Yadav, has already granted bail by one of the learned co-ordinate Bench of this Court, through Cr. Appeal (SJ) No. 3977 of 2018 dated 18.12.2018. It is further submitted that from bare perusal of FIR, it appears that there is no overt act against the appellant, which attracts atrocities within the meaning of the Act. While concluding the argument, it is submitted that investigation is completed, for which, charge-sheet has already 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. for the State, while opposing prayer for bail, submitted that appellant actively participated in alleged occurrence, causing death of son of informant.

10. In view of the submissions, as made above and by taking note of the fact as save and except suspicion arises out of confessional statement of co-accused, no incriminating material recovered/surfaced, as to connect this appellant, *prima facie*,



with present occurrence coupled with the fact that the charge-sheet has already submitted, where, appellant is in custody since 22.05.2019, let the appellant, above named, is directed to be released on bail in connection with Kotwali P.S. Case No.132 of 2018 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Act, Gaya/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 10.04.2023 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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