

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2273 of 2023

Arising Out of PS. Case No.-387 Year-2022 Thana- AMAS District- Gaya

-
1. SHIV NARAYAN YADAV @ SHIVNARAYAN DAS SON OF LATE RAMLAL YADAV RESIDENT OF VILLAGE- PAHARPUR, PS- AMAS, DISTT- GAYA
 2. BANGALI YADAV SON OF LATE RAMLAL YADAV RESIDENT OF VILLAGE- PAHARPUR, PS- AMAS, DISTT- GAYA

... .. Appellant/s

Versus

1. The State of Bihar
2. BABAN DAS SON OF LATE NANDU DAS RESIDENT OF VILLAGE- PAHARPUR, PO- DARIAURA, PS- AMAS, DISTT- GAYA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arvind Kumar Singh, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 21-07-2023 Heard learned counsel for the appellants and learned Special P.P. for the State as well as learned counsel appearing on behalf of the informant, on point of admission and on merit also.

2. The appellants have 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 21.02.2023 passed by the learned Special Judge, SC/ST, Gaya in connection with Amas P.S. Case No.387 of 2022 registered under Sections 341, 323, 504 and 506 of Indian Penal



Code and Section 3(i)(r)(s) of SC/ST (POA) Act.

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

4. Notice has been issued to Respondent no.2, served upon and duly represented.

5. The appellants are named in F.I.R. and are in custody since 27.01.2023.

6. The allegation against the appellants is to assault informant along with other co-accused persons, causing bodily injuries and also to abuse by caste name, during course of occurrence.

7. Learned counsel for the appellants submitted that present occurrence appears free fight in nature, for which, a counter case by appellants side was also lodged, which has been registered as Amas P.S. Case No.388 of 2022, where, both parties received injuries. It is submitted that present FIR lodged with a delay of 08 days, without having any just explanation where injuries found upon non-vital parts of the body. It is submitted that from the face of FIR and even during course of investigation, nothing incriminating surfaced against these appellants, which may suggest that act of appellants can be said an atrocities within the meaning of the Act. While concluding



the argument, it is submitted that appellant No.1 is a man of clean antecedent, whereas, appellant No.2 found involved in 02 more criminal cases, where, he is on bail and moreover, investigation of this case 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 duly assisted by learned counsel for the Respondent No.2/Informant, while opposing prayer for bail, submitted that the allegation as to cause assault by *Khanti* is specifically available against both appellants, but fairly conceded the fact that injury received is on the non-vital part of the body.

10. In view of the submissions, as made above and by taking note of the fact as occurrence is free fight in nature coupled with the fact that the charge-sheet has already submitted, where, appellants are in custody since 27.01.2023, let both appellants, as above named, are directed to be released on



bail in connection with Amas P.S. Case No.387 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST, Gaya/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 21.02.2023 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

S.Katyayan/-

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

