

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2272 of 2023

Arising Out of PS. Case No.-45 Year-2022 Thana- SC/ST District- Samastipur

RAHUL KUMAR Son of Sanjeet Raut Resident of village - Srirampur
Ayodhya, P.S.- Pusa, District - Samastipur

... .. Appellant/s

Versus

1. The State of Bihar
2. Devendra Paswan Son of Ganaur Paswan Resident of village - Srirampur
Ayodhya, Ward No.- 4, P.S.- Pusa, District - Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Madhuri Kumari, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.
For the Informant	:	Mr. Abhay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 21-07-2023 Heard learned counsel for the appellant 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 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 10.02.2023 passed by the learned Special Judge, SC/ST
(POA) Act, Samastipur in connection with SC/ST P.S. Case No.
45 of 2022 registered under Sections 341, 323, 504 and 506/34
of Indian Penal Code and Section 3(1)(r)(s) and 3(2)(va) of
SC/ST 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 appellant is named in F.I.R. and is in custody since 02.02.2023.

6. The allegation against the appellant is to assault the informant, along with other co-accused persons, by means of iron rod, *Panch*, etc., causing bodily injuries, where, occurrence arises out of previous enmities, due to local disputes and differences.

7. Learned counsel for the appellant submitted that occurrence is free fight in nature, where, both parties received injuries and for the same set of occurrence, appellant's side also lodged a case, which has been lodged as Pusa P.S. Case No. 55 of 2022. It is further submitted that present FIR lodged with a delay of 04 days, without having any just explanation. It is submitted that from the face of FIR and even during course of investigation, nothing incriminating surfaced against this appellant, which may suggest the act of appellant can be said an atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellant is a man of clean



antecedent and moreover, 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 duly assisted by learned counsel for the Respondent No.2/Informant, while opposing prayer for bail, submitted that allegation, as to cause physically assault, by using iron rod, is against this appellant.

10. In view of the submissions, as made above and by taking note of the fact as occurrence appears free fight in nature coupled with the fact that the charge-sheet has already submitted, where, appellant is in custody since 02.02.2023, let the appellant, above named, is directed to be released on bail in connection with SC/ST P.S. Case No. 45 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 (POA) Act, Samastipur/concerned court, subject to the condition as mentioned under Section 437(3) of



the Cr.P.C.

11. Accordingly, impugned order dated 10.02.2023 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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