

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2616 of 2023

Arising Out of PS. Case No.-213 Year-2021 Thana- BUNIYAD GANJ District- Gaya

Yogendra Yadav @ Jogindra Yadav @ Sugwa Yadav Son Of Mahesh Yadav
@ Doman Yadav Resident Of Village - Sadipur, P.S. - Buniyadganj, Distt. -
Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Surendra Chaudhary @ Guddu Chaudhary Resident of village and Post -
Alipur, P.S. - Buniyadganj, Distt. - Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Kumar Sinha, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.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 (for short 'the Act') against the order dated 09.05.2023 passed by the learned Exclusive Special Judge SC/ST, Gaya in connection with Buniyadganj P.S. Case No.213 of 2021 registered under Sections 147, 148, 149, 323, 341 and 302 of the Indian Penal Code and Section 3(2)(V) of the SC/ST (POA) Act.

3. Present appeal is well within limitation as



prescribed under Section 14A(3) of the Act.

4. It is submitted by learned Special P.P. that information has been given to the informant, in terms of the order dated 23.06.2023 about the present Court proceedings, where informant failed to join present proceedings.

5. Appellant is named in F.I.R. and is in custody since 16.11.2022.

6. The allegation against the appellant is to commit murder of the brother of the informant alongwith other named co-accused persons by causing physical assault using *lathi*, iron rod etc., where reason of occurrence is not explained through F.I.R.

7. Learned counsel for the appellant submitted that allegation as regard to physical assault is appearing very much general and omnibus against this appellant, as per narration of the F.I.R. and by taking note of the general and omnibus allegation of assault co-accused person, namely Dhiraj Yadav @ Dhiraj Kumar, has already been granted bail by one of the learned Co-ordinate Bench of this Court through Criminal Appeal (SJ) No. 588 of 2022 vide order dated 13.10.2022. It is also submitted that informant is not the eye-witness of the occurrence and entire allegation arises out of suspicion. It is also



submitted that nothing surfaced from the bare perusal of the F.I.R., which may, on its face, suggest that the act of appellant attract 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 in this case is complete for which chargesheet has been 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. appearing on behalf of State, while opposing the prayer of bail submitted that appellant actively participated during the course of occurrence.

10. In view of the facts and circumstances, as mentioned above, and by taking note of the fact as informant is not the eye-witness of the occurrence, where entire implication appears, *prima facie*, based upon suspicion coupled with the fact, that chargesheet has already submitted, where appellant is in custody since 16.11.2022, accordingly the appellant, above named, is directed to be released on bail in connection with



Buniyadganj P.S. Case No.213 of 2021 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, Gaya/concerned Court, subject to the conditions, as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 09.05.2023 is set aside.

12. Hence, appeal is allowed.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

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

