

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2666 of 2023**

Arising Out of PS. Case No.-178 Year-2021 Thana- BATHNAHA District- Sitamarhi

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LAL MOHMMAD SHEIKH SON OF SHAHID SHEKH VILLAGE
BATHNAHA PS BATHNAHA DIST SITAMARHI

... .. Appellant/s

Versus

1. The State of Bihar
2. SONAM DEVI WIFE OF LATE RANJIT PASWAN RESIDENT OF
MAIVI, POST KISHANPUR, PS- BATHNAHA, DISTRICT- SITAMARHI

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Nikhil Singh, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Special P.P.
For the Informant	:	Mr. Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 04-08-2023 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 03.05.2023 passed by the learned Additional Sessions
Judge-cum-Special Judge, SC/ST (POA) Act, Sitamarhi in
connection with Bathnaha P.S. Case No.178 of 2021 registered



under Sections 302/34 of Indian Penal Code and Sections 3(2) (r) 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 by learned counsel.

5. The appellant is named in F.I.R. and is in custody since 30.03.2023.

6. The allegation against the appellant is to commit murder of husband of informant, while engaged him as a labour on contract at Mohaniya, Bihar.

7. Learned counsel for the appellant submitted that narration of FIR is sufficient to suggest that husband of informant went along with this appellant up to Mohaniya, Bihar in connection with his employment, being a contract labour, where, appellant was contractor. It is submitted that husband of informant was engaged with construction work and during work of construction, due to sudden fall of wall, he received head and bodily injuries and died during course of his treatment. It is submitted that petitioner being contractor of said work managed immediately ambulance for proper treatment of injured husband of the informant and when he died out of said accident, he



managed to sent his dead body up to residence of deceased i.e. Village-Maivi, P.S.-Bathnaha, District – Sitamarhi on his own cost, but subsequently on the basis of afterthought to settle dispute regarding wages, present false implication was made, which is otherwise appearing completely baseless, where no incriminating material surfaced, during course of investigation, out of said suspicion. It is also pointed out by learned counsel that informant is not the eye-witness of the occurrence. It is submitted that from the face of FIR and even during course of investigation, nothing incriminating surfaced against this appellant, which may suggest that 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 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 appearing on behalf of the informant, while opposing prayer for bail, submitted that soon before the occurrence, the deceased called her wife i.e. informant of this case and told her that he might be killed by this appellant, out of wage related disputes.

10. In view of the submissions, as made above and by taking note of the fact as informant is not the eye-witness of the occurrence, where, implication raised upon suspicion arises out of telephonic conversation as alleged, where, nothing incriminating surfaced, during course of investigation, as to connect this appellant, *prima facie*, with present occurrence of murder coupled with the fact that the charge-sheet has already submitted, where, appellant is in custody since 30.03.2023, who is a man of clean antecedent, let the appellant, above named, be directed to be released on bail in connection with Bathnaha P.S. Case No.178 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 Additional Sessions Judge-cum- Special Judge, SC/ST (POA) Act, Sitamarhi/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 03.05.2023 is



set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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