

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2679 of 2023**

Arising Out of PS. Case No.-19 Year-2022 Thana- SC/ST District- Araria

MD SHAKIL @ MD SHAKIL AHMAD S/O HAFIZ MIFTAHUL HAQUE
@ HAFIZ MIFTAUL @ MIFTAHUL HAQUE R/O Village- Gaiyari, Ward
No. 13, PS. and Dist. Araria

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. REKHA DEVI W/O LATE GULTEN RISHIDEO R/O Village- Devpura,
Ward No. 12, PS. Forbesganj (Simraha) Dist. Araria

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Anil Prasad Singh, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, Special P.P.
For the Informant	:	Md. Ziaul Quamar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 04-08-2023 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 09.05.2023 passed by the learned Additional Sessions
Judge-1st-cum-Ld. Special Judge, Araria in connection with
SC/ST Case No. 19 of 2022 registered under Sections 341, 323,
504, 379, 506, 425 and 354B/34 of Indian Penal Code and
Sections 3(i)(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 by learned counsel.

5. The appellant is named in F.I.R. and is in custody since 25.04.2023.

6. The allegation against the appellant is to outrage the modesty of the minor daughter of the informant and also to assault her, during course of occurrence, by abusing with her caste name.

7. Learned counsel for the appellant submitted that thrust of allegation is available against co-accused, namely, Md. Tausir with whom the informant of this case, appears to be in land disputes. It is submitted that as this appellant is relative of co-accused, Md. Tausir, was implicated with present case with general and omnibus allegation as to create a pressure to main co-accused, Md. Tausir. It is submitted that allegation of outraging the modesty is not available against this appellant rather same is available against Md. Tausir and nothing incriminating surfaced during course of investigation against this petitioner, as to connect him, *prima facie*, with present 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 the act of appellant can be said an atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellant found involved in 03 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 appearing on behalf of the informant, while opposing prayer for bail, fairly conceded the fact that thrust of allegation is available against co-accused, Md. Tausir.

10. In view of the submissions, as made above, as the nature of allegation regarding outraging modesty and also regarding physical assault appearing very much general and omnibus against this appellant, where, same is specifically available against co-accused, Md. Tausir coupled with the fact



that the charge-sheet has already submitted, where, appellant is in custody since 25.04.2023, let the appellant, above named, is directed to be released on bail in connection with SC/ST Case No. 19 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 Additional Sessions Judge-1st-cum-Special Judge, Araria/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C. with further conditions:

“(i) That appellant shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the appellant.

(ii) Accused/appellant shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellant duly supported by



the documents.

(iii) That one of the bailors of the
appellant shall be deponent of the present
bail petition.”

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

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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