

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2668 of 2023**

Arising Out of PS. Case No.-212 Year-2023 Thana- AHIYAPUR District- Muzaffarpur

Arun Ray @ Arun Rai, S/o Late Yogendar Ray, R/o Village-Bhagwatipur,
PS.- Ahiyapur, Dist.- Muzaffarpur.

... .. Appellant

Versus

1. The State of Bihar
2. Kaushlya Devi, W/o Rambriksha Paswan R/o Village-Chak Mahmmad,
Panchayat-Bada Jagarnath, P.S. -Ahiyapur, Dist. -Muzaffarpur

... .. Respondents-Opposite Parties

Appearance :

For the Appellant/s : Mr. Yugal Kishore, 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 appellant and learned
Special Public Prosecutor for the State.

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') for setting aside the impugned order dated 27.05.2023 passed by the learned Special Judge, SC/ST (POA) Act in connection with Ahiyapur P.S. Case No.212 of 2023 registered for the offences punishable under Sections 341, 323, 307 read with 34 of the Indian Penal Code and Section 3(1)(r)(s) of the Act.

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



4. Notice was issued vide order dated 23.06.2023 by this Court regarding present proceedings in terms of Section 15-A(2) of the Act to the informant.

5. It is submitted by learned Special Public Prosecutor that information already given to informant in terms of aforesaid order duly served and represented.

6. Accused/appellant is named in the FIR and is in custody since 18.02.2023.

7. Allegation against the accused/appellant is to assault the son of informant along with other named 4-5 unknown co-accused persons causing head and bodily injuries and also to drag the son of informant by neck, having intention to cause his death, where occurrence arises out of local dispute and differences.

8. It is submitted by learned counsel appearing on behalf of the appellant that the allegation regarding physical assault is appearing very much general and omnibus against the appellant, where the present FIR was lodged with a delay of eight days without having any just explanation. It is submitted that nothing surfaced during the course of investigation, which may suggest that act of appellant can be said an atrocities within the meaning of Act, as to cause present occurrence. While



concluding argument, it is submitted that appellant found involved in two more criminal cases, where he is on bail and moreover investigation of this case has been completed for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

9. 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]***.

10. Learned Special Public Prosecutor duly assisted by learned counsel for the informant opposes the prayer for bail.

11. In view of above-mentioned facts and circumstances and by taking note of nature of allegation regarding physical assault which is appearing very much general and omnibus against the appellant, coupled with the fact that charge-sheet has already submitted, where appellant is in custody since 18.02.2023, accordingly, the appellant, above-named, is directed to be released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST (POA) Act, Muzaffarpur in connection with Ahiyapur



P.S. Case No. 212 of 2023, subject to the conditions as laid down under Section 437(3) of the CrPC.

12. Accordingly, the impugned order dated 27.05.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

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