

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2870 of 2023**

Arising Out of PS. Case No.-300 Year-2023 Thana- NAWADA District- Nawada

=====

Dara Yadav @ Raj Kumar Yadav @ Raju Kumar, Son of Naresh Yadav @ Naresh Prasad Yadav, Resident of Village - Gondapur, P.S.- Nawada Town, District - Nawada.

... .. Appellant

Versus

1. The State of Bihar
2. Manjit Kumar, Son of Raj Kishor Maiya, Resident of Village - Sohjana, P.S.- Town, District - Nawada

... .. Respondents

=====

Appearance :

For the Appellant	:	Mr. Shashank Shekhar, Advocate
For the State	:	Mr. Binay Krishna, Special P.P.
For the Informant	:	Mr. Subodh Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 04-08-2023 Heard learned counsel for the appellant, learned Special Public Prosecutor for the State and learned counsel for the informant.

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 02.06.2023 passed by the learned Exclusive Special Court, SC/ST (POA) Act, Nawada in connection with Town P.S. Case No.300 of 2023 registered for the offences punishable under Sections 341, 323, 324, 385, 379, 504, 506 read with 34 of the Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(va) 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 07.07.2023 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 upon and represented by learned counsel for the informant.

6. Accused/appellant is named in the FIR and is in custody since 08.05.2023.

7. Allegation against the appellant is to assault the informant and others causing head and bodily injuries, where assault as alleged was caused by deadly weapons including firearms, having intention to cause their death and also alleged to have looted total cash of Rs.48,000/- and ten cylinders from the truck of informant, where occurrence is alleged to be arises out of previous enmities/dispute.

8. It is submitted by learned counsel that as informant was engaged in black-marketing of gas cylinders and same was objected by this appellant and others, the present false implication was raised in connivance with local police. It is



submitted that one of the reason for implication of appellant is also suspicion arises out of criminal antecedents, as he found involved in eight more criminal cases, where he is on bail, having otherwise no bearing over the merit of the present case. It is submitted that the appellant alleged to cause assault by using butt of pistol, which clearly indicate that he was not under intention to cause death of informant, otherwise there was all occasion to open fire without having any intervening circumstances. Learned counsel submitted that nothing surfaced during the course of investigation, which may suggest that the 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 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 Mr. Subodh Kumar, learned counsel for the informant, while



opposing the prayer for bail of the appellant submitted that appellant is a man of criminal antecedents and he regularly advanced threat to informant and others of the locality.

11. In view of above-mentioned facts and circumstances, as assault was caused by this appellant by butt of pistol, which negates *prima facie* absence of intention to cause death, coupled with the fact that charge-sheet has already submitted, where appellant is in custody since 08.05.2023, 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 Exclusive Special Court, SC/ST (POA) Act, Nawada in connection with Town P.S. Case No.300 of 2023 subject to the conditions as laid down under Section 437(3) of the CrPC and with further conditions:-

(i) That appellant shall not involve in any nature of criminal case 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) That appellant shall co-operate 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; and

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

12. Accordingly, the impugned order dated 02.06.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

Sanjeet/-

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

