

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2971 of 2023

Arising Out of PS. Case No.-852 Year-2022 Thana- BIHTA District- Patna

Dharambir Paswan @ Dharambir Kumar @ Guddu Kumar S/O Upendra
Paswan R/O Village- Kanchanpur Tola, Ps. Bihta, Dist. Patna, Bihar-801103

... .. Appellant/s

Versus

1. The State Of Bihar
2. Mahapati Devi W/O Late Surendra Paswan R/O Village- Kanchanpur Tola,
Ps. Bihta, Dist. Patna, Bihar-801103

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Jai Prakash Chaudhary, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 11-08-2023 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 (for short 'the Act') against the order dated 17.03.2023 passed by the learned Exclusive Special Court, SC/ST Act, Patna in connection with Bihta P.S. Case No. 852 of 2022 registered under Sections 341, 323, 307, 302, 147, 148 and 149 of the Indian Penal Code, Section 27 of Arms Act and Section 3(2)(V) of the 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/respondent no.2, in terms of the order dated 14.07.2023 about the present Court proceedings, where informant/respondent no.2 failed to join the present proceedings.

5. Appellant is named in F.I.R. and is in custody since 22.12.2022.

6. The allegation against the appellant is to commit murder of the husband of the informant, alongwith other named co-accused persons, by assaulting with iron rod, where occurrence arises out of previous enmities.

7. Learned counsel for the appellant submitted that informant who is none but the wife of deceased is claiming to be an eye-witness of the occurrence and author of the present F.I.R., where she categorically stated that co-accused Vinay Yadav and Ramfal Yadav, caused fatal assault blow on the head of her husband causing his death during the course of treatment. It is submitted that maximum allegation against appellant is to take benefit of the occasion and started assaulting the persons available over the place of occurrence favoring informant by helping all other named co-accused persons, which is appearing



very much general and omnibus in nature. 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 causing death of husband of the informant.

10. In view of the facts and circumstances, as mentioned above, as allegation of fatal assault is available against co-accused Vinay Yadav and Ramfal Yadav and not against this appellant coupled with the fact, that chargesheet has been submitted, where appellant is in custody since 22.12.2022,



accordingly the appellant, above named, is directed to be released on bail in connection with Bihta P.S. Case No. 852 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 Exclusive Special Court, SC/ST Act, Patna/concerned Court, subject to the conditions, as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 17.03.2023 is set aside.

12. Hence, appeal is allowed.

(Chandra Shekhar Jha, J)

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