

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3460 of 2023**

Arising Out of PS. Case No.-1398 Year-2022 Thana- BIHTA District- Patna

MUNNA PASWAN, MALE, AGED ABOUT 35 YEARS, S/O LALBABU PASWAN R/O VILLAGE- MAINPURA, DARIYAPUR, PS. PHULWARISHARIF, DIST. PATNA

... .. Appellant/s

Versus

1. The State of Bihar
2. RAVINDRA PASWAN S/O LATE DEV PRASAD PASWAN PRESENTLY RESIDING AT NEURA DERA, PS. NEURA, DIST. PATNA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Santosh Kumar, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Special P.P.

CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA

ORAL ORDER

7 27-03-2024 Heard learned counsel for the appellant and learned Special P.P. for the State, on point of admission and on merit also.

2. Learned Special P.P. for the State submitted that notice has validly been served upon the informant, but no one appears on behalf of the informant.

3. 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 “SC/ST Act”) against the refusal of prayer for bail vide order dated 23.06.2023 passed by the learned Exclusive Special Judge (SC/ST Act), Patna in connection with Bihta P.S. Case No.1398 of 2022 registered under Sections 302/34 of Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of SC/ST Act.

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

5. The allegation against the appellant is to have committed murder of son of the informant.

6. Learned counsel for the appellant submitted that the appellant has falsely been implicated in the present case. It is submitted that there is no eye-witness of the present occurrence. It is submitted that no specific allegation is against this petitioner, rather allegation is against this petitioner is general and omnibus in nature. It is further submitted that no incriminating materials have been recovered from the conscious physical possession of this petitioner, during course of investigation, which may connect him with the present set of occurrence. It is also submitted that from bare perusal of FIR, it appears that there is no overt act against the appellant, which attracts atrocities within the meaning of the SC/ST Act. It is



further submitted name of the this petitioner surfaced in this case on the basis of confessional statement of other co-accused person, namely, Bittu Kuamr, who has already been granted bail by a learned co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 5000 of 2023 on 21.03.2024. It is further submitted that appellant is in custody since 28.12.2023.

7. 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.*

8. Learned Special P.P. for the State opposes the prayer for bail of the appellant.

9. In view of the submissions, as made above and as specific allegation is against other co-accused persons and no over act has been levelled against this petitioner, let the appellant, above named, is directed to be released on bail in connection with Bihta P.S. Case No.1398 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 Judge (SC/ST Act), Patna.

10. Accordingly, impugned order dated



23.06.2023 is set aside.

11. Hence, appeal stands allowed.

(Ramesh Chand Malviya, J)

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