

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4947 of 2023

Arising Out of PS. Case No.-159 Year-2022 Thana- KATIHAR MUFFASIL District- Katihar

Dilip Kharwar son of Dipak Kharwar, Resident of Mohalla-Naya Tola,
Brahamchari. P.S.- Muffasil Dist- Katihar

... .. Appellant

Versus

1. The State of Bihar
2. Gudri Munda, son of Late Sukdeo Munda, R/o Mohalla-Nayatola
Brahmachari. P.S.- Muffasil, Dist-Katihar

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Bal Krishna Mishra, Advocate Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 06-09-2024

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 19.09.2023 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST, Katihar in connection with G.R. No.4497 of 2022 arising out of Muffasil P.S. Case No.159 of 2022 registered for the offences punishable under Sections 341, 323, 324, 307, 379 and 504 read with 34 of



the Indian Penal Code but, later on after investigation, Section 3(1)(r)(s) and 3(2)(va) of the Act was added in the FIR.

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

4. Notice was issued vide order dated 03.05.2024 by this Court regarding present proceedings in terms of Section 15-A(3) of the Act to the informant.

5. It is submitted by learned Special Public Prosecutor that information has already given to the informant in terms of aforesaid order but, he failed to join the present proceeding.

6. Accused/appellant is named in the FIR and is in custody since 19.08.2023.

7. Allegation against the appellant is to assault father of informant by inflicting repeated knife injuries along with other co-accused persons, where occurrence is arises out of previous enmity.

8. It is submitted by learned counsel that appellant has been falsely implicated with present case out



of previous enmity as available through FIR itself. It is submitted that even as per the statement of injured, it nowhere appears that knife injuries as alleged was made on abdomen by this appellant. It is also pointed out that, it is doubtful from the statement of injured itself, which is available in para-21 of the case diary that the alleged assault was caused by this appellant or by co-accused Deepak Kharwar. It is also pointed out that the mother of the injured, who also said to be present at the place of occurrence and appearing eye-witness of this occurrence failed to name this appellant as to inflict knife injury upon injured, rather same is available exclusively against co-accused Nitesh Kharwar. While concluding argument, it is submitted that appellant is a man of clean antecedent and moreover investigation of this case has been completed for which, charge-sheet has already 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 opposes the prayer for grant of bail.

11. A report regarding stage of trial was also called for from the learned Special Judge, Katihar in which it is stated that still the matter is at the stage of appearance. The appellant is in custody for more than one year and still charge could not framed in this case by learned trial court.

12. In view of above-mentioned facts and circumstances and by taking note of fact as allegation to cause knife injury is available doubtful against this appellant in view of statement of injured himself and also her mother, who claimed to be an eye-witness of the occurrence, coupled with the fact that charge-sheet has already submitted, where appellant is in custody since 19.08.2023, 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 1st Additional Sessions Judge-cum-Special



Judge, SC/ST, Katihar in connection with G.R. No.4497 of 2022 arising out of Muffasil P.S. Case No.159 of 2022, subject to the conditions as laid down under Section 437(3) of the CrPC/under Section 480(3) of BNSS.

13. Accordingly, the impugned order dated 19.09.2023 is set aside.

14. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.09.2024
Transmission Date	10.09.2024

