

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5405 of 2023

Arising Out of PS. Case No.-123 Year-2022 Thana- RIGA District- Sitamarhi

Chandan Singh Son of Late Dinesh Singh, R/o Village-Sonar, P.S.- Riga,
Dist.- Sitamarhi

... .. Appellant

Versus

1. The State of Bihar
2. Harishchandra Paswan @ Hari Chandra Paswan, Son of Late Sukhdeo Paswan, R/o Riga, Tole Ramnagar, Ward No. 1, P.S.- Riga, Dist.- Sitamarhi

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Ashok Kumar Jha, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.
For the Opposite Party No.2:		Mr. Ravi Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 12-07-2024

Heard learned counsel for the appellant and
learned Special Public Prosecutor for the State duly assisted
by learned counsel for the opposite party no.2.

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
09.10.2023 passed by the learned 1st Additional Sessions
Judge-cum-Special Judge, SC & ST Act, Sitamarhi in
connection with Riga P.S. Case No.123 of 2022 registered



for the offences punishable under Sections 302 read with 34 of the Indian Penal Code, section 27 of the 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. Notice was issued vide order dated 12.02.2024 by this Court regarding present proceedings in terms of Section 15-A(2) of the Act to the informant.

5. Accused/appellant is named in the FIR and is in custody since 25.05.2023.

6. The allegation against the appellant is to commit murder of son of the informant along with other co-accused persons, after calling from home.

7. Learned counsel for the appellant submitted that the maximum allegation, which appears against the appellant that he was also present in the party, which was organized at the residence of co-accused, Manish Bihari Singh @ Manish Singh, where the son of informant called to join the party, being a friend. It is submitted that on the basis of said suspicion, the appellant has been falsely



implicated with present case, where nothing surfaced during the course of investigation, which may incriminate appellant, *prima facie*, with the present set of occurrence. It is further submitted that as per FIR, the enmity not appears with this appellant, rather same appears with co-accused Sanjeev Kumar, which arises out of land dispute. It is submitted by Mr. Ashok Kumar Jha, learned counsel appearing for appellant that one of the reason for false implication of this petitioner is suspicion arising out of criminal antecedents, as he found involved in more than seven criminal cases, where he is on bail in five cases and in rest two cases, he is acquitted. It is further submitted that the name of appellant has been surfaced on the basis of confessional statement of co-accused persons arising on the basis of suspicion, except suspicion, his criminal antecedents is of no bearing on the merit of present case.

8. It is pointed out that as per narration made in FIR, the alleged party was organized at the house of co-accused, namely, Manish Bihari Singh @ Manish Singh, where appellant was also present but, during the course of



investigation, no incriminating material, which *prima facie* connect even that he was found there and moreover the dead body of deceased son of informant was found from 'chaur' which is an open place. 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 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 appearing for the informant/opposite party No.2 while opposing the prayer for bail of the appellant submitted that appellant was actively



participated in occurrence.

11. In view of above-mentioned facts and circumstances, as alleged party was organized at the house co-accused, Manish Bihari Singh in which deceased son of informant was called to join the party, being a friend but, during the course of investigation, no incriminating material surfaced, which *prima facie* connect him with alleged occurrence and moreover the dead body of deceased son of informant was found from '*chaur*' which is an open place, as also the name of appellant surfaced on the basis of confessional statement of co-accused persons arising on the basis of suspicion, coupled with the fact that charge-sheet has already submitted, where appellant is in custody since 25.05.2023, 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 1st Additional Sessions Judge-cum-Special Judge, SC & ST Act, Sitamarhi in connection with Riga P.S. Case No.123 of 2022, subject to the conditions as laid down under Section



437(3) of the CrPC.

12. Accordingly, the impugned order dated 09.10.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.07.2024
Transmission Date	16.07.2024

