

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5311 of 2023

Arising Out of PS. Case No.-276 Year-2020 Thana- KOILWAR District- Bhojpur

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SUBHASH YADAV @ SUBASH RAY S/O DOODHNATH RAI R/O
VILLAGE- CHAKIA, P.S- DORIGANJ, DISTT.- SARAN.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. SUPAN RAJAK S/O LATE CHABILA RAJAK R/O VILLAGE- RAMPUR
DIYARA, P.S- MANER, DISTT.- PATNA.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Shiv Prasad Gupta, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.P.P.
For the Informant	:	Mr. Yogesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 30-08-2024 Heard learned counsel for the appellant, learned

Special P.P. for the State and learned counsel for the

informant, 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 29.09.2023 passed by the

learned 1st Additional Sessions Judge-cum-Special Judge

SC/ST Act, Bhojpur at Ara in connection with Koilwar P.S.

Case No. 276 of 2020 registered under Section 302/34 of

Indian Penal Code, Section 27 of the Arms Act and Section



2(v) of the Act.

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

4. Notice has been issued to Respondent no.2, served upon and duly represented.

5. Appellant is not named in the F.I.R.

6. The allegation against the appellant is to be involved in a fight between two groups in which the bullet fired by co-accused, namely, Bhuwar Rai hit the informant's brother, who died on the spot.

7. Learned counsel for the appellant submitted that appellant is not named in the F.I.R., where informant is the eye witness of the occurrence. It is submitted that name of the appellant surfaced on the basis of named co-accused, Bhuwar Rai, who has already granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 659 of 2021 dated 02.08.2021 and furthermore, it is submitted that specific allegation is against co-accused, namely, Bhuwar Rai. It is submitted that implication of the appellant in the present case is only on the basis of



confessional statement. It is 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 similarly situated co-accused namely Birendra Rai has already granted anticipatory bail by learned Co-ordinate Bench of this Court though Cr. Appeal (SJ) No. 916 of 2021 vide order dated 26.10.2021.

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. for the State duly assisted by learned counsel for the informant, while opposing the prayer of anticipatory bail, fairly conceded that specific allegation is against co-accused, namely, Bhuwar Rai to fire upon the brother of the informant.

10. In view of the facts and circumstances as mentioned above, as nothing surfaced during the course of



investigation to connect the appellant with the present occurrence, where specific allegation is made out against the named co-accused, Bhuwar Rai, accordingly the appellant above named, in the event of his arrest or surrender before the learned trial court within a period of four weeks, is directed to be released on bail in connection with Koilwar P.S. Case No. 276 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge SC/ST Act, Bhojpur at Ara/concerned Court, subject to the conditions as laid down u/s 438(2) of the Cr.P.C.

11. Accordingly, impugned order dated 29.09.2023 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J.)

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