

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 2441 of 2022**

Arising Out of PS. Case No.-252 Year-2022 Thana- BARACHATTI District- Gaya

BALDEO PRASAD @ BALDEO PRASAD MAHTO S/o Late Lakhn
Mahto, Resident of Village- Mahkampur, P.S.- Barachatti, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Keshri Devi Wife of Suresh Kumar, Resident of Village- Mahkampur, P.S.- Barachatti, District - Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Awadhesh Kumar Mishra, Advocate
For the Respondent/s	:	Mrs.Usha Kumari 1, Spl. PP
For the Informant	:	Mr. Kunwar Narayan Jamuar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

9 10-01-2025 1. Heard learned counsel for the appellant, learned Special P.P. for the State and learned counsel appearing for the informant.

2. 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 31.05.2022 passed by the learned Exclusive Spl. Judge, SC/ST, Gaya in ABP No. 125/2022 arising out



of Barachatti P.S. Case No. 252/2022, registered for the offences under Sections 147, 148, 149, 323, 324, 325, 354(B), 307, 504, 506/34 of the Indian Penal Code and Sections 3(i) (r) (s) (w) (i) (ii), 3 (ii) (v-a) of SC/ST Act.

3. It is submitted by learned counsel appearing for the appellant that the true copy of the certified copy of the FIR and entire appeal now already deposited with the office.

4. Considering the submission as advanced above, the defect(s) as pointed out by the office be ignored for the present.

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

6. Notice was duly served upon informant in view of Section 15A(3) of the SC/ST Act and duly represented by the advocate of her choice, whereas the learned counsel failed to join proceeding from limited cause.

7. As per case of prosecution, 20 FIR named accused persons including appellant and other 4-5 unknown persons entered into the house of



respondent no. 2 and abused her by caste name. It is also alleged that accused persons were equipped with *lathi* and *pistol*. During occurrence, the husband of the informant and other family members received severe injuries including fracture.

8. Learned counsel appearing for the appellant submitted that the allegation of physical assault against the appellant/petitioner is very much general and omnibus. It is pointed out that as per FIR, accused persons including this appellant was alleged to be equipped with pistol but admittedly no firing was made during the occurrence, which suggest on its face that appellant/petitioner alongwith other co-accused persons were not under intention to cause death of the informant and her family members. It is pointed out that the entire occurrence took place in house and was not in public view and by considering the aforesaid aspect, one of the learned co-ordinate Bench of this Court granted anticipatory bail to co-accused persons Aman



Kumar and others through Cr. Appeal (SJ) No. 2444 of 2022 dated 23.11.2022. While concluding the argument, it is submitted by learned counsel that cause behind this occurrence now stands compromised between the parties.

9. Mrs. Usha Kumari 1, learned Special P.P. while opposing the prayer of anticipatory bail submitted that the allegation is of collective assault after entering inside the house of the informant and FIR itself suggest that during the occurrence, husband of the informant received grievous injuries, however, she could not disputed the factual submissions as advanced by learned counsel appearing for the appellant/petitioner.

10. Learned counsel for the appellant further submitted that if insult/occurrence is not caused to victim/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.***

11. In view of aforesaid factual and legal



submission and by taking note of fact as allegation of physical assault *prima facie* is appearing very much general and omnibus against this appellant/petitioner, where the allegation of firing is also not available despite of having equipped with pistol, coupled with the fact that alleged occurrence not appears to be taken place *prima facie* in public view, accordingly, the appellant, above named, in the event of his arrest or surrender before the learned trial Court, within a period of six weeks of the order, 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 Exclusive Spl. Judge, SC/ST, Gaya/concerned Court, where the case is pending in connection within ABP No. 125/2022 arising out of Barachatti P.S. Case No. 252/2022, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Chandra Shekhar Jha, J)

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