

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.235 of 2022**

Arising Out of PS. Case No.-416 Year-2018 Thana- BASANTPUR District- Siwan

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MITHILESH KUMAR @ MARAI @ MITHILESH KUMAR SAH S/o Late
Raj Kumar Sah R/o village- Parauli Sah Tola, P.S.- Basantpur (Nabiganj O.P.),
District- Siwan

... .. Appellant/s

Versus

1. The State of Bihar
2. Ramesh Kumar Ram son of Late Vidya Ram R/O village- Paraulisah Tola,
P.S.- Basantpur (Nabiganj O.P.) District- Siwan

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Pandey, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Special P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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| 3 | 02-11-2022 | 1. | Heard learned counsel for the appellant and learned

Special P.P. for the State as well as learned counsel for

respondent no.2/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 27.10.2021 passed by

the learned Additional Sessions Judge 1 st -cum-Special

Judge, SC/ST (POA) Act, Siwan in connection with |



Basantpur P.S. Case No. 416 of 2018 registered under Sections 302/120(B)/34 of Indian Penal Code, Section 27 of the Arms Act and Sections 3(2)(v)(a) of the Schedule Caste and Schedule Tribe (POA) 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. The appellant is named in FIR and is in custody since 27.07.2019.
6. The allegation against the appellant is to commit murder of brother of informant along with other co-accused persons by causing firearm injury, due to previous disputes founded over money transactions.
7. Learned counsel for the appellant submitted that informant is not the eye-witness of the present occurrence. It is further submitted that as per FIR, the allegation of firing is not specific against this appellant. It is further submitted that similarly situated co-accused, namely, Antu Singh @ Antu Kumar @ Antoo Singh has already been granted bail by a learned co-ordinate Bench of this Court, through Cr. Appeal (SJ) No. 1816 of 2019



dated 05.07.2019. While travelling over the argument, it is also submitted that previous disputes related with money transaction is an admitted position, which is the basis of present occurrence and as such, false implication cannot be ruled out. It is further submitted that the act of the appellant cannot be said an atrocities, within the meaning of Act. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

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 of the informant/respondent no. 2, while opposing the prayer of bail submitted that allegation of firing is specific against this appellant, as per statement of witness, who is own brother of the deceased, namely, Sonu Kumar, as surfaced during course of investigation,



in support of his submission, learned counsel for the informant, pointed out paragraph no.35 of the case diary, where, the statement of witness, namely, Sonu Kumar, is recorded. It is also submitted that only one bullet shot was noticed during post-mortem of the deceased, which is in full corroboration with manner of firing, as stated by eye-witness.

10. In view of the submissions, as made above, as there is specific allegation of firing is available against this appellant, as per statement of eye witness, causing death of brother of informant due to firearm injury, this Court, at present, is not inclined to grant bail to the appellants.

11. Accordingly, the prayer of bail of the appellants is rejected herewith.

12. Hence, appeal stands dismissed.

13. Learned Trial Court is directed to proceed with the matter, by taking it on board, on daily basis, if necessary, so as trial may conclude within 06 (six) months from the date of receipt of a copy of this order. Failing which, appellant shall be at liberty to approach before this Court, if so advised, for renewal of his prayer of bail.

14. Superintendent of Police, Siwan, is directed to



produce the charge-sheeted witnesses, as and when directed by the learned Trial Court, for expeditious disposal of trial, within specified time, as directed above.

(Chandra Shekhar Jha, J)

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