

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.472 of 2022**

Arising Out of PS. Case No.-519 Year-2021 Thana- BEGUSARAI TOWN District- Begusarai

Md. Kalim Son Of Md. Mustakim R/O - Near D.C. Singh Petrol Pump, P.O.
And P.S.- Begusarai Town, District- Begusarai (BIHAR)

... .. Appellant/s

Versus

1. The State of Bihar
2. Nitish Kumar Son Of Late Ram Kumar Paswan R/O Mohallah- Rajendra Nagar, Gachchi Tola, Ward No.32, P.S.- Town, District- Begusarai

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Subhen Sarkar, Advocate
For the Respondent/s : Mr.Binay Krishna, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 28-07-2022

Heard learned counsel for the appellant and learned APP
for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks from the date of resumption
of physical filing and physical removal of defect.

This is an appeal under Section 14(A)(2) of the
Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act,
1989 against the refusal of prayer for bail vide order dated
17.11.2021 passed by the learned Special Judge SC/ST (POA) Act,
Begusarai in connection with Begusarai (Town) P.S. Case No. 519 of
2021 registered for the alleged offences under Sections 307, 504,
506 and 34 of the Indian Penal Code and Sections 3(i) (r) (s) of the
SC/ST (Prevention of Atrocities) Act and Section 27 of the Arms Act.



As per prosecution case, the informant was shot at by the appellant from his pistol. The incident took place in the back ground of dispute between the informant and the appellant over purchase of vegetables and appellant threatened the informant while abusing him with caste name.

The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. There could be no application of provisions of SC/ST (Prevention of Atrocities) Act as it is clear from the FIR that though the informant was abused by caste name and that occurrence took place few days ago and no case was lodged for the said occurrence. The informant has made up the story of second fire by the appellant. Under the aforesaid back ground, no case is made out against the appellant under the SC/ST (Prevention of Atrocities) Act. He is in custody since 10.09.2021 and charge sheet has been submitted.

Learned counsel appearing on behalf of the Informant and learned APP for the State opposes the prayer for bail of the appellant. It has been submitted that the informant let go earlier abuses by the appellant taking his caste name but the appellant did not stop here and tried to kill him. The injury report shows fire arm injury and bullet was removed from the body of the informant.

Having regard to the submission made hereinabove and considering the facts and circumstances and that the occurrence could not be said to have taken place due to caste of the informant and



further considering the nature of injuries suffered by the informant along with the period of custody of this appellant as well as submission of charge sheet, the appellant above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge SC/ST (POA) Act, Begusarai in connection with Begusarai (Town) P.S. Case No. 519 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.
- (iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Arun Kumar Jha, J)

Gautam/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.



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Transmission Date	05.08.2022

