

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.630 of 2022**

Arising Out of PS. Case No.-136 Year-2020 Thana- MADHUBANI TOWN District-
Madhubani

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Purushotam Jha S/o Late Jagdish Jha R/o village- Sundarpur, Bhitthi, P.S.-
Madhubani Town, District- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Soman Paswan S/o Late Rebi Paswan R/o village- Sundarpur, Bhatti, Ward
No. 04, P.S.- Madhubani Town, District- Madhubani

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Mrityunjay Kumar, Advocate Ms.Shilpa Kumari, Advocate
For the Respondent/s	:	Ms.Usha Kumari-I, Spl.P.P

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

4 01-12-2022 1. Heard learned counsel for the appellant and learned
Special P.P. for the State, 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 19.01.2022 passed by the learned Additional
Sessions Judge-cum-Special Judge, Madhubani in connection
with Madhubani Town P.S. Case No. 136 of 2020 registered
under Sections 341, 323, 324, 307, 302, 379, 427, 452, 504, 506
and 34 of Indian Penal Code, under Section 27 of the Arms Act
and under Section Section 3(i)(r) 3(2)(va) of the SC/ST Act.



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

4. Spl. P.P. has submitted that information has been given to informant/Respondent no.2 in terms of direction vide order dated 21.07.2022, but failed to join the present proceeding.

5. Appellant is named in F.I.R. and is in custody since 19.12.2021.

6. The allegation against the appellant is to commit murder of grandson of the informant, along with other co-accused persons, by causing fire arm injuries, due to longstanding land dispute.

7. Learned counsel for the appellant submitted that the allegation to cause fatal fire arm injury is available against co-accused, Arun Kumar Jha @ Arun Jha, not against this appellant, where maximum allegation is the part of mob only. It is submitted that occurrence was nothing but a free fight, where both parties received injuries. It is further submitted that co-accused namely, Arun Kumar Jha @ Arun Jha, having specific allegations, has already been granted bail by one of the learned Co-ordinate Bench of this Court through Criminal Appeal (SJ) No. 1948 of 2020 vide order dated 16.03.2021. It is submitted



that nothing surfaced from bare perusal of the F.I.R., which may suggest on its face, that act of appellant attract atrocities within the meaning of the Act. While concluding the argument, it is submitted that investigation in this case is complete 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 opposes the prayer of bail.

10. In view of the facts and circumstances, as mentioned above, as allegation to cause fatal fire arm injury is available against co-accused, Arun Kumar Jha @ Arun Jha, not against this appellant, who was the part of mob only, without attributing any overt act towards the occurrence, let the appellant, above named, is directed to be released on bail in connection with Madhubani Town P.S. Case No. 136 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 Additional Sessions Judge-cum-Special Judge,
Madhubani/concerned Court, subject to the conditions as laid
down under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 19.01.2022 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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