

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.599 of 2022**

Arising Out of PS. Case No.-235 Year-2021 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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AMAN KUMAR @ AMAN PASWAN Son of Congres Paswan Resident of
Village - Khiriyawan, P.S. - Magadh Medical College- Gaya, Distt. - Gaya.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ravi Bhardwaj, Advocate
For the State	:	Mr. Sadanand Paswan, Special PP
For the Informant	:	Mr. Deenu Kumar, Advocate

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

- 6 16-11-2022 1. Heard learned counsel for the appellant and learned Special P.P. for the State as well as learned counsel for the 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, 1989 (hereinafter referred to as “the Act”) against the refusal of prayer for bail vide order dated 12.01.2022 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Gaya in connection with Magadh Medical P.S. Case No. 235 of 2021 registered under Sections 302, 120(B) and 34 of Indian Penal Code, Section 27 of the Arms Act and



Section 3(2)(v) of SC/ST 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 F.I.R. and is in custody since 10.09.2021.
6. The allegation against the appellant is to commit murder of son of the informant along with other co-accused persons by causing firearm injury, due to previous enmities, arises out of love affairs.
7. Learned counsel for the appellant submitted that from bare perusal of FIR, it appears that the deceased/victim came out from his house on his own and was not called by any of the accused persons, named in the FIR and as such, it can be safely gathered that there was no meeting of minds, as regard to present occurrence. It is further submitted that the maximum allegation is available against this appellant of caught hold the hand of deceased, where, the specific allegation of firing, causing death of the son of the informant is available against co-accused, namely, Avinash Kumar @ Gore Babu. It is



further pointed out by learned counsel for the appellant that mere by holding hand at the time of occurrence cannot be lead to a conclusion *ipso facto* that there was meeting of minds and appellant was under common intention with co-accused, namely, Avinash Kumar @ Gore Babu to cause fatal firearm injury. It is further submitted that the basis of entire implication is doubtful for the simple reason that same is based upon the hearsay input, despite of the fact that the eye-witness for the occurrence is available. It is further pointed out that video recording of last moment of the deceased is also not specifying any further incriminating material beyond holding of hand as alleged through FIR/eye-witness. It is further submitted that from face of FIR, it appears that act of the appellant, failed to attracts atrocities within the meaning of the Act. While concluding the argument, it is submitted that the appellant is involved in two more criminal cases, in which, he is on bail and moreover, 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 for the Respondent No.2/Informant, while opposing prayer for bail, fairly conceded that the allegation of firing is specific against co-accused, namely, Avinash Kumar @ Gore Babu, as per FIR. It is submitted by learned counsel for the informant that as per eye-witness of the occurrence, the appellant was alleged to caught hold hand of the deceased at the time of occurrence when firing was made upon by co-accused.
10. In view of the submissions, as made above, as the basis of implication is hearsay input and allegation of causing fatal firearm injury is available against Avinash Kumar @ Gore Babu coupled with the fact that charge-sheet has already been submitted, let the appellant, above named, is directed to be released on bail in connection with Magadh Medical P.S. Case No. 235 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to



the satisfaction of learned Exclusive Special Judge,
SC/ST(POA) Act, Gaya/concerned court, subject to the
conditions, as mentioned under Section 437(3) of the
Cr.P.C.

11. Accordingly, impugned order dated 12.01.2022 is
set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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