

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.679 of 2022**

Arising Out of PS. Case No.-45 Year-2020 Thana- MATIHANI District- Begusarai

AMRESH RAY Son of Late Meghan Rai Resident of Village - Chakballi
Diyara, P.s.- Matihani, Distt.- Begusarai.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Satish Paswan Son of Baleshwar Paswan Resident of village-Chackballi
Diyara,P.O-B.T.P.S,P.S-Matihani,District-Begusarai

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ram Sumiran Rai
For the Respondent/s : Mr. Binay Krishna

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

- 5 01-09-2022 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 “SC/ST Act”) against the
refusal of prayer for bail vide order dated 22.01.2022
passed by the learned Exclusive Special Judge,
SC/ST(POA) Act, Begusarai in connection with Matihani
P.S. Case No. 45 of 2020 registered under Sections



147/148/149/504/506/307 of Indian Penal Code, Section 25(1-b)a, 26 and 27 of the Arms Act and Section 3(i)(r) (c)3(2)(v)(a) of the 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, but refused to receive notice.
5. The appellant is named in F.I.R. and is in custody since 10.01.2022.
6. The allegation against the appellant is to fire upon the family member of the informant along with other co-accused persons, with intention to cause death, while escaping after firing, 3 co-accused persons were apprehended on spot, with firearms.
7. Learned counsel for the appellant submitted that allegation of firing is very much general and omnibus. It is also submitted that pistol was recovered from possession of co-accused, namely, Hariom Kumar Rai, who has already been granted bail by a co-ordinate Bench of this Court, through Cr. Appeal (SJ) No. 1500 of 2020. It has further been submitted that from bare perusal of FIR, it appears that there is no overt act against the



appellant, which attracts atrocities within the meaning of the 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 for the Respondent No.2/Informant, while opposing prayer for bail, fairly conceded the fact that the allegation as regard to firing is very much general and omnibus against this appellant.

10. In view of the submissions, as made above, as there is no recovery of firearms from the possession of the appellant in the background of general and omnibus allegation, let the appellant, above named, is directed to be released on bail in connection with Matihani P.S. Case No. 45 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 Exclusive Special Judge, SC/ST(POA) Act, Begusarai/concerned court, subject to the conditions as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 22.01.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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