

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1182 of 2022

Arising Out of PS. Case No.-94 Year-2021 Thana- NAUHATTA District- Saharsa

DURGANAND SINGH S/O RADHE PRASAD SINGH @ RADHA KANT
SINGH R/o village- Mohanpur, P.S.- Nauhatta, Distt.- Saharsa

... .. Appellant/s

Versus

1. The State of Bihar
2. Vikash Chaudhary S/o Ram Vilash Chaudhary R/o village- Muradpur, Ward No. 05 Tirasitola, P.S.- Nauhatta, District- Saharsa

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Kumar Sinha, Advocate
For the Respondent/s : Mr. Binay Krishna, Special P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 5 21-09-2022 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, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 11.01.2022 passed by the learned Additional Sessions Judge-III-cum-Special Judge, SC/ST(POA) Act, Saharsa in connection with Nauhatta P.S. Case No. 94 of 2021 registered under Sections 147, 148, 149, 341, 323, 307, 504 and 506 of



Indian Penal Code, Section 27 of the Arms Act and Section 3(1)(r)(s) SC/ST Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.
4. It is submitted by learned Special P.P. that informant has already been informed through Superintendent of Police, Saharsa vide letter no. 12167 dated 27.07.2022, but informant failed to join the present proceedings.
5. The appellant is named in F.I.R. and is in custody since 16.08.2021.
6. The allegation against the appellant is to fire upon informant causing firearm injury over upper side of chest, along with other co-accused persons.
7. Learned counsel for the appellant submitted that allegation is very much general and omnibus against this appellant as being part of mob, where, specific allegation of firing is available against co-accused, namely, Mohd. Parvej. It is further submitted that nothing can be gathered from the face of FIR, which may suggest that act of appellant is within the meaning of atrocities, as defined under the Act. It has further been submitted that similarly



situated co-accused person has already been granted bail by one of the learned co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 516 of 2022 dated 18.08.2022. 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, while opposing prayer for bail, fairly conceded the fact that allegation of firing is not against this appellant.
10. In view of the submissions, as made above, as allegation of firing is not available against this appellant 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 Nauhatta P.S. Case No. 94 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 Additional Sessions Judge-III-cum-Special Judge, SC/ST(POA) Act, Saharsa/concerned court, subject to the condition as mentioned under Section 437 (3) of the Cr.P.C.

11. Accordingly, impugned order dated 11.01.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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