

Arising Out of PS. Case No.-63 Year-2022 Thana- FATUA District- Patna

- ... .. Appellant/s

Versus

- ... .. Respondent/s

|                      |   |                                                                                                      |
|----------------------|---|------------------------------------------------------------------------------------------------------|
| For the Appellant/s  | : | Mr. N. K. Agarwal, Senior Advocate<br>Mr. Kumar Rajdeep, Advocate<br>Mr. Sujit Kumar Singh, Advocate |
| For the Respondent/s | : | Ms. Usha Kumari 1, Special P.P.                                                                      |

3      28-09-2022      1.      Heard learned counsel for the appellants 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 Act”) against the refusal of prayer for bail vide order dated 22.02.2022 passed by the learned Additional Sessions Judge-VII-cum-Exclusive Special Court (POCSO Act), Patna in connection with



Fatuha P.S. Case No. 63 of 2022 registered under Sections 341, 323, 307, 354(B), 504, 509 and 34 of Indian Penal Code, Section 8 and 10 of POCSO Act, Sections 25(1-b)a, 26, 27, 35 of the Arms Act and Section 3(i) (r), 3(ii) (va) of SC/ST (POA) Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.
4. Notice validly served upon Respondent No.2, but failed to join present proceeding.
5. The appellants are named in F.I.R. and are in custody since 26.01.2022.
6. The allegation against the appellants is to fire upon informant and also outrage the modesty of minor daughter along with other co-accused persons.
7. Learned senior counsel for the appellants submitted that both the appellants belongs to the same village as of informant and due to local disputes and differences, these appellants have been implicated falsely. It is further submitted that no firearm injury was caused to any persons, where, both the appellants were apprehended by the private persons. While concluding the argument, it is submitted that these appellants are man of clean



antecedent, 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 appellants 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 no firearm injury caused in the present occurrence.
10. In view of the submissions, as made above, as these appellants have been apprehended by private persons coupled with the fact that charge-sheet has already been submitted, let both the appellants, above named, are directed to be released on bail in connection with Fatuha P.S. Case No. 63 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VII-cum-Exclusive Special Court (POCSO Act), Patna/concerned court,



subject to conditions as mentioned under Section 437(3)  
of the Cr.P.C.

11. Accordingly, impugned order dated 22.02.2022 is  
set aside.

12. Hence, appeal stands allowed.

**(Chandra Shekhar Jha, J)**

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