

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1885 of 2022

Arising Out of PS. Case No.-523 Year-2021 Thana- BARH District- Patna

VIKASH SINGH S/o Uday Narayan Sharma R/o- Pandarak, P.S. Pandarak,
Distt.- Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dharamraj Kumar S/o Sri Krishna Mohan Prasad R/o Vill - Gopkita, P.S. Pandarak, Distt.- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amresh Kumar Sinha
For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 01-12-2022 1. Heard learned counsel for the appellant, learned Special P.P. for the State and learned counsel for the 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 (for short 'the Act') against the order dated 09.05.2022 passed by the learned Court of Exclusive Special Court, SC/ST Act, Patna in connection with Barh P.S. Case No. 523 of 2021 registered under Sections 307, 302, 120(B), 34 of IPC, 27 of Arms Act and Section 2(IV) of the 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. Appellant is named in F.I.R. and is in custody since 13.03.2022.

6. The allegation against the appellant is to commit murder of one, Rajesh Kumar Pabdarak, alongwith other co-accused persons by causing firearm injury, while returning from a marriage party in the background of local political rivalries.

7. Learned counsel for the appellant submitted that the allegation of firing is very much general and omnibus and same is not appearing specific against this appellant from the bare perusal of F.I.R. It is further submitted that the firing was made on non-vital part of the body clearly, negating that the appellant was under intention to cause death. It is also submitted that allegation of firing is available against two co-accused persons, whereas only single gunshot injury was noticed, while conducting postmortem of deceased, creating a doubt over version of informant, being an eye witness of the occurrence. It is also submitted that admittedly the occurrence was due to political differences at local level, where appellant was implicated only for the reason that he is the son of Ex-Mukhiya. While concluding the argument, it is submitted that the act of appellant cannot be said atrocities within the meaning of Act, from bare perusal of the F.I.R. and moreover, investigation of this case has



been completed, for which charge-sheet has 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. duly assisted by learned counsel, S.D. Yadav alongwith Priyaranjan Kumar, for the informant, while opposing the prayer of bail submitted that allegation of firing is available against this appellant, as per F.I.R.

10. In view of the facts and circumstances, as gunshot injury was found on non-vital part of the body, negating intention to cause death on its face coupled with the fact that charge-sheet has been submitted, let the appellant, above named, is directed to be released on bail in connection with Barh P.S. Case No. 523 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 Court of Exclusive Special Court, SC/ST Act, Patna/concerned Court, subject to the conditions as mentioned:

“(i) That appellant shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court



itself for the cancellation of bail bond
of the appellant.

(ii) Accused/Appellant
shall cooperate in the trial and shall
be physically present on each and
every date before the Trial Court till
conclusion of the trial and exemption
from physical appearance be allowed
by the Trial Court, only on medical
ground of the appellant duly
supported by the documents.

(iii) That one of the
bailors shall be deponent of the
present appeal.”

11. Accordingly, impugned order dated 09.05.2022 is set
aside.

12. Hence, appeal is allowed.

(Chandra Shekhar Jha, J)

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