

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2347 of 2022

Arising Out of PS. Case No.-53 Year-2022 Thana- SAUR BAZAR District- Saharsa

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MUKESH YADAV Son of late Vijendra Yadav Resident of Village - Itahara,
Ward No. 5, P.s.- Sour Bazar, District - Saharsa.

... .. Appellant/s

Versus

1. The State of Bihar
2. Raju Paswan Son of Bimal Paswan Resident of Village - Itahara, Ward No. 5, P.s.- Sour Bazar, District - Saharsa.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ashok Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Special P.P.
For the informant	:	Mrs. Pooja Kumari, Advocate
		Mr. Amit Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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| 4 | 22-09-2022 | 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. | Vakalatnama has been placed by learned counsel for the informant, during course of hearing, the same is kept on record. |
| | | 3. | 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 09.06.2022 |



passed by the learned Additional Sessions Judge – 3rd-cum-Special Judge, SC/ST(POA) Act, Saharsa in connection with Sour Bazar P.S. Case No. 53 of 2022 registered under Sections 448, 341, 323, 307, 504, 506 and 34 of Indian Penal Code, Section 27 of the Arms Act and Section 3(1)(r)(s), 3(2)(v), 3(2)(va) of SC/ST Act.

4. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.
5. Notice has been issued to Respondent no.2, served upon and duly represented.
6. The appellant is named in F.I.R. and is in custody since 31.03.2022.
7. The allegation against the appellant is to fire upon informant along with other co-accused persons, causing firearm injury.
8. Learned counsel for the appellant submitted that allegation of firing is not available against this appellant, rather the same is against co-accused, namely, Santosh Sah. It is also submitted that maximum allegation is appearing against this appellant is to surrounded the informant along with other co-accused persons, which also appears very general and omnibus in nature. It is



further submitted that nothing can be gathered from the face of FIR, which may suggest that act of the appellant can be said within the meaning of atrocities, as defined under 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.

9. 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.**
10. Learned Special P.P. for the State duly assisted by learned counsel for the Respondent No.2/Informant, while opposing prayer for bail, submitted that appellant is a man of criminal antecedent and usually advances threat to informant, but fairly conceded the fact that the allegation of fire is not against this appellant.
11. In view of the submissions, as made above, as allegation of firing is not available against this appellant, rather same is specific against co-accused, namely,



Santosh Sah 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 Sour Bazar P.S. Case No. 53 of 2022 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-3rd-cum-Special Judge, SC/ST(POA) Act, Saharsa/concerned court, subject to the following conditions:

“(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 of the
appellant shall be deponent of the present
appeal.”

12. Accordingly, impugned order dated 09.06.2022 is
set aside.

13. Hence, appeal stands allowed.

14. The presence of I/O before this Court is dispensed
with.

(Chandra Shekhar Jha, J)

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