

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3108 of 2022**

Arising Out of PS. Case No.-145 Year-2022 Thana- DARBHANGA SADAR District-
Darbhanga

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MUKESH KUMAR YADAV Son of Sri Laxmikant Yadav Resident of village
- Kamalpur, P.S.- Bahadurpur, District - Darbhanga

... .. Appellant/s

Versus

1. The State of Bihar
2. Shatrughan Paswan Son of Late Yogendra Paswan Resident of village -
Kamalpur Chaprar, P.S.- Bahadurpur (Fekla O.P.), District - Darbhanga

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ajay Thakur, Advocate Ms. Vaishnavi Singh, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Special P.P.
For the informant	:	Mr. Manish Kumar No.13, Advocate Mr. Rohit Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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| 3 | 14-12-2022 | <ol style="list-style-type: none">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. Considering the submission, learned counsel for the
appellant is permitted to correct the date of impugned
order in satisfaction portion of the present appeal.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 Act”) against the refusal of |
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prayer for bail vide order dated 23.07.2022 passed by the learned 3rd Additional Sessions Judge-cum-Exclusive Special Judge, SC/ST(POA) Act, Darbhanga in connection with Sadar P.S. Case No. 145 of 2022 registered under Sections 302, 120(B) and 34 of Indian Penal Code and Section 3(2)(v) 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 not named in F.I.R. and is in custody since 05.04.2022.
7. The allegation against the appellant is to commit murder of the son of the informant along with other co-accused persons, due to previous enmities, arises out of land dispute.
8. Learned counsel for the appellant submitted that the name of the appellant surfaced in paragraph no.9 of the case diary, where, restatement of informant is available, which suggests only an after thought to implicate this appellant for oblique motive. It is also submitted that even by taking note of restatement of



informant the maximum allegation appears against this appellant is to involved in conspiracy, related with present occurrence. It is further submitted that the informant is also a man of criminal background and he himself found involved in 06 criminal cases. It is also submitted that from the face of FIR, it cannot be said that the act of appellant is an atrocities, within the meaning of 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 a firearm was recovered from the possession of this appellant, where, still forensic report awaited.
11. In view of the submissions, as made above, as



name of this appellant surfaced during restatement of informant without naming in FIR, where, maximum allegation surfaced as of conspirator 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 Sadar P.S. Case No. 145 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 3rd Additional Sessions Judge-cum-Exclusive Special Judge, SC/ST(POA) Act, Darbhanga/concerned court, subject to the conditions, as mentioned under Section 437(3) of the Cr.P.C.

12. Accordingly, impugned order dated 23.07.2022 is set aside.

13. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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