

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4846 of 2023

Arising Out of PS. Case No.-209 Year-2023 Thana- MAJORGANJ District- Sitamarhi

Shyam Pandey, Male, Aged about 42 Years, son of Ramashray Pandey
Village- Basbitta Ps- Majorganj Dist- Sitamarhi

... .. Appellant/s

Versus

1. The State of Bihar
2. Arvind Kumar son of Chhote Lal Mehta Vilage-Belwa Parri Ps- Majorganj
Dist- Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Jha, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Special P.P.

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

4 27-03-2024 Heard learned counsel for the appellant and

learned Special P.P. for the State, on point of admission and on
merit also.

2. Learned Special P.P. for the State submitted

that notice has validly been served upon the informant, but no
one appears on behalf of the informant.

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 26.09.2023 passed by the



learned 1st Additional Sessions Judge, Sitamarhi in connection with Majorganj P.S. Case No.209 of 2023 registered under Sections 302, 307, 120B/34 of Indian Penal Code, Section 27 of the Arms Act and Section 3(1)(r)(s) of SC/ST Act.

4. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

5. The allegation against the appellant is to have committed murder of the brother of the informant.

6. Learned counsel for the appellant submitted that the appellant has falsely been implicated in the present case, where, appellant is not named in the FIR and his name surfaced on the basis of statement of supervising authority. It is submitted that no specific allegation is against this petitioner, rather allegation as regard to cause firearm injury is against other co-accused person, namely, Ambuj Kumar. It is further submitted that no incriminating materials have been recovered from the conscious physical possession of this appellant, during course of investigation, which may connect him with the present set of occurrence. It is also submitted that from bare perusal of FIR, it appears that there is no overt act against the appellant, which attracts atrocities within the meaning of the SC/ST Act. It is further submitted that appellant is in custody since



27.07.2023.

7. 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*.

8. Learned Special P.P. for the State opposes the prayer for bail of the appellant.

9. In view of the submissions, as made above and as specific allegation is against other co-accused person, namely, Ambuj Kumar and no over act has been levelled against this petitioner, let the appellant, above named, is directed to be released on bail in connection with Majorganj P.S. Case No.209 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Sitamarhi.

10. Accordingly, impugned order dated 26.09.2023 is set aside.

11. Hence, appeal stands allowed.

(Ramesh Chand Malviya, J)

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