

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.714 of 2022**

Arising Out of PS. Case No.-87 Year-2018 Thana- NOWKOTHI GARHPURA District-
Begusarai

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Kundan Sahni @ Kundan Kumar S/o Om Prakash Sahni R/o Village -
Manikpur Dunhi, P.S. - Garhpura, District - Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. Shashi Kumar, P.S.I Nawkothe, Dist Begusari

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ashok Kumar, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. PP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

4 01-09-2022 1. Heard learned counsel for the appellant 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 (for short 'the Act') against
the order dated 13.01.2022 passed by the learned Exclusive
Special Judge, SC/ST (POA), Begusarai in connection with



Nowkothi P.S. Case No. 87 of 2018 registered under Sections 302, 201 and 120B of Indian Penal Code, Sections 25(1-b)a, 26 and 27 of the Arms Act and Section 3(2)(v) of the Act.

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

4. Perused office note, notice could be served, as respondent no.2 is transferred.

5. Appellant is named in F.I.R. and is in custody since 06.08.2021.

6. The allegation against the appellant is to commit murder, alongwith other co-accused persons, where the dead body was recovered from the dickey of an Alto car.

7. Learned counsel appearing on behalf of the appellant submitted that appellant has already been granted anticipatory bail through one of the learned Co-ordinate Bench of this Court vide Cr. Appeal (SJ) No. 3908 of 2019 dated 16.09.2019 but as he could not surrender within time, for which a modification petition was pending before this Court, in the meantime, the appellant was apprehended by the police. It is submitted that the name of the petitioner surfaced on the basis of confessional statement of co-accused, namely, Gopal Kumar, who was apprehended with the dead body, has already been



granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Appeal (SJ) No. 1649 of 2019. It is further submitted that in furtherance of said confession, nothing incriminating recovered/surfaced, which may connect the appellant, *prima facie*, with the present recovery of dead body/murder. While concluding the argument, it is submitted that investigation in this case is complete for which chargesheet 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. for the State, while opposing the prayer of bail, fairly conceded that appellant was not apprehended on the spot.

10. In view of the facts and circumstances, as mentioned above, as nothing incriminating recovered/surfaced, which may connect the appellant, *prima facie*, with the present recovery of dead body/murder coupled with the fact that chargesheet has already been submitted, let the appellant, above



named, is directed to be released on bail in connection with Nowkothi P.S. Case No. 87 of 2018 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST (POA), Begusarai/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 13.01.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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