

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1509 of 2022

Arising Out of PS. Case No.-115 Year-2021 Thana- NAVINAGAR District- Aurangabad

Chhotan Yadav, S/o Late Kanhai Yadav, R/o village- Parisiya, P.S.-
Navinagar, District- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Dhasrath Vishwakarma, S/o Late Jagannath Vishwakarma, R/o village-
Parsiya, P.S.- Navinagar, Distt.- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sanjay Kumar, Advocate
For the State	:	Mr.Binay Krishna, Spl. PP
For the informant	:	Mrs. Mukul Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 29-09-2022

Heard learned counsel for the appellant and learned
Spl.PP for the State as well as learned counsel for the
informant/respondent No.2.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks from the date of
resumption of physical filing and physical removal of defect.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail by
order dated 26.03.2022 passed by the learned 1st Additional
District and Sessions Judge-cum-Special Judge (SC/ST),
Aurangabad in connection with Nabinagar P.S. Case No. 115 of



2021, registered for the alleged offences under Section 302 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3 (2) (Va) of the Scheduled Castes and Scheduled Tribes (POA) Act.

As per the prosecution case, during the *tilak* ceremony of the son of the informant the appellant fired from his pistol and the shot hit the wife of the nephew of the informant in her head and she died on her way to hospital.

The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. It is a case of celebratory firing and no one has seen who actually fired as many persons were firing in the air. The appellant has been falsely implicated by the informant but later on the informant retracted his statement and filed an application before the learned trial court that at the behest of others he has named the appellant and the appellant has nothing to do with the occurrence. There would be no application of provisions of SC/ST (POA) Act in this case. The appellant is in custody since 01.02.2022 and charge-sheet has been submitted.

Learned Spl.PP opposes the submission made on behalf of the appellant. Learned counsel appearing on behalf of the informant/respondent no. 2 submits that the matter has been



compromised and a petition has been filed on behalf of the informant before the learned trial court stating that the appellant was not involved in the occurrence.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that specific allegation has been made against this appellant by the informant in his written report and, thereafter, the informant and other witnesses in the case diary and notwithstanding the retracted statement of the informant before the learned trial court which is not in the form of deposition, I am not inclined to grant bail to the appellant. Hence, the prayer for bail is rejected.

Accordingly, the appeal is dismissed.

However, the learned trial court is directed to expedite the trial and conclude the same at the earliest, preferably within a period of six months.

(Arun Kumar Jha, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.10.2022
Transmission Date	01.10.2022

