

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2694 of 2022**

Arising Out of PS. Case No.-172 Year-2014 Thana- NAVINAGAR District- Aurangabad

Anul Mina @ Anul Khan @ Govind Jee @ Anul Miyan S/O Late Basaruddin
Mian Resident of village- Suryapura, P.S.- Tandwa, District- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Ghura Paswan @ Bhura Paswan S/O Late Ramlagan Paswan Resident of
Village- Bharkur, P.S.- Nabinagar, District- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashok Kumar Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 01-12-2022 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 05.07.2022 passed by the learned 1st Additional
District and Sessions Judge-cum-Special Judge (SC/ST),
Aurangabad in connection with Nabinagar P.S. Case No. 172 of
2014 registered under Sections 364, 302 and 34 of Indian Penal
Code, under Section 3(ii)(V) of the SC/ST Act, under Section 27
of the Arms Act and under Section 17 of the CLA Act.



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

4. It is submitted by learned Spl. PP that Superintendent of Police, Aurangabad has been informed, with regard to the communication of information about the Court proceedings to the informant, copy of which has been filed before this Court and same is taken on record, but informant failed to appear.

5. Appellant is not named in F.I.R. and is in custody since 11.04.2022.

6. The allegation against the appellant is to commit murder of the son of the informant, alongwith other co-accused persons due to previous enmity.

7. Learned counsel for the appellant submitted that informant is not the eye witness of the occurrence, where entire allegation is based upon suspicion. It is submitted that name of the appellant surfaced on the basis of confessional statement of co-accused, namely, Birbal Paswan, where nothing surfaced during the course of investigation to connect this appellant, *prima facie*, with the present set of occurrence. It is submitted that the said Birbal Pawan has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr.



Appeal (SJ) No. 2803 of 2019 dated 30.09.2019. It is further submitted that the appellant is involved in this case only for his criminal antecedents, as he is found to be involved in eleven cases, where name of appellant surfaced in maximum of cases on the basis of confessional statement, as of the present case. It is submitted that nothing surfaced from bare perusal of the F.I.R., which may suggest, on its face, that the act of appellant attract atrocities within the meaning of the Act. 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 the fact that appellant is not named in the F.I.R.

10. In view of the facts and circumstances, as mentioned above, as nothing surfaced during the course of investigation to connect this appellant, *prima facie*, with the



present set of occurrence 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 Nabinagar P.S. Case No. 172 of 2014 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 District and Sessions Judge-cum-Special Judge (SC/ST), Aurangabad/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 05.07.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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