

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPEAL NO.774 OF 2022

Naghbhushan s/o. Digambar Wagdale ..Appellant

Vs.

The State of Maharashtra and anr. ..Respondents

Mr.S.B.Bhapkar, Advocate for appellant
Mr.R.B.Bagul, APP for respondent no.1
Mr.G.D.Jain, Advocate for respondent no.2

**CORAM : R.G.AVACHAT AND
R.M.JOSHI, JJ.**

DATE : NOVEMBER 23, 2022

ORDER :-

This is an appeal under Section 14-A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("Act of 1989", for short). The challenge in this appeal is to the order dated 23.03.2022 below Exh.7 in Special Case No.44 of 2021, rejecting the appellant's application for bail in connection with Crime No.229 of 2021 registered with Umri Police Station, Dist. Nanded, for the offence punishable under Section 302 read with Section 34 of Indian Penal Code and Section 3(2)(v) of the Act of 1989.

2. Heard learned counsel for the parties.

3. Learned counsel for the appellant would submit that the First Information Report (FIR) has been lodged 19 days after the alleged incident. The deceased was said to have been assaulted by the appellant and the co-accused with fist blows and kicks on the night of 30.09.2021. The co-accused have been granted bail. Learned counsel would, therefore, urge for allowing the appeal.

4. Learned APP would, on the other hand, submit that an innocent person has lost his life due to beating given by the appellant and the co-accused. An application for cancellation of bail granted to the co-accused, is pending before this Court. Both learned APP and learned counsel for respondent no.2 - informant, ultimately, urged for dismissal of the appeal.

5. Perused the FIR and the related police papers. The incident took place by 11.00 p.m. on 30.09.2021. The FIR has been lodged 19 days thereafter, i.e. on 19.10.2021. The appellant and the co-accused are alleged to have assaulted the deceased – Navnath with fist blows and kicks, as a result of which, Navnath died.

6. On investigation, charge sheet has been filed. Similarly placed co-accused have been granted bail. There was delay of little over 19 days in lodging the FIR. It will take time for commencement and conclusion of the trial. In the fitness of things, we are inclined to allow the appeal.

7. Hence, the following order:-

(i) The appeal is allowed.

(ii) The appellant be released on bail in connection with Crime No.229 of 2021 registered with Umri Police Station, Dist. Nanded, for the offence punishable under Section 302 read with Section 34 of Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(iii) The appellant shall not tamper with the prosecution evidence.

[R. M. JOSHI, J.]

[R.G. AVACHAT, J.]

KBP