

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2211 of 2023

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

Chhotan Yadav son of Late Kanhai Yadav Village- Parasiya Ps- Navinagar
Dist- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Dashrath Vishwkarma son of Late Jagannath Vishwkarma Village- Parasiya
Ps- Navinagar Dist- Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Tribhuwan Narayan, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl.PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 21-06-2023

Heard learned counsel for the appellant and learned
Spl. PP for the State.

2. Vide order dated 10.05.2023, the learned Special
PP was directed to inform the informant/respondent no. 2
through the Superintendent of Police, Aurangabad about the
proceeding taking place in this Court. Today the learned Special
PP has informed this Court that the informant was noticed about
the proceedings taking before this Court. But no one has
appeared on behalf of the informant. Hence, the matter has been
taken up for hearing.

3. 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 19.04.2023 passed by learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST) Act, Aurangabad in connection with Navinagar P.S. Case No. 115 of 2021 registered for the alleged offences under Sections 302 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3 (2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

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

5. Learned counsel for the appellant submits that the appellant has earlier filed Cr. App. (SJ) No. 1509 of 2022 seeking bail which was rejected on 29.09.2022. Learned counsel further submits that the appellant is innocent and has been falsely implicated in this case as there is doubt over firing by this appellant. More so, it was a case of joy firing and a number of persons were firing in the air. The informant retracted from his statement and filed an application before the learned trial court for wrongly naming this appellant. There could be no application of the provisions of SC/ST (Prevention



of Atrocities) Act in the present case. The appellant is in custody since 01.02.2022 and till date only one witness has been examined in this case.

6. Learned Spl. PP opposes the submission made on behalf of the appellant.

7. Having regard to the facts and circumstances and submission made on behalf of the parties and considering the fact that even after passage of so much time only one witness has been examined in this case and there is less likelihood of early conclusion of trial and further taking into consideration the period of custody of the appellant, he directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned learned 1st Additional District and Sessions Judge-cum-Special Judge (SC/ST) Act, Aurangabad in connection with Navinagar P.S. Case No. 115 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and the following conditions:

(i) One of the bailors will be a close relative of the appellant.

(ii) The appellant will remain present on each and every date fixed by the court below.



(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

7. Accordingly, the impugned order is set aside and the appeal is allowed.

(Arun Kumar Jha, J)

himanshu/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.06.2023
Transmission Date	22.06.2023

