

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.722 of 2016

Arising Out of PS.Case No. -24 Year- 2016 Thana -IMAMGANJ District- GAYA

Nasimuddin Khan son of Nooruddin Haider Khan, resident of village- Malhari Chedi Sthan, Police Station - Imamganj, District - Gaya.

The State of Bihar

Versus

.... Appellant/s

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Syed Maslehuddin Ashraf, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 27-10-2016

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

2. This appeal under Section 14A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC and ST Act') is directed against the order dated 1st July, 2016 passed by the learned Exclusive Special Court (Special Judge) SC/ST, Gaya in B.P. No.14 of 2016/1331 of 2016 arising out of Imamganj P.S. Case No.24 of 2016 registered under Section 302/34 of the Indian Penal Code, Section 27 of the Arms Act and Section 3(2)(v) of the SC and ST Act whereby and whereunder the bail application of the appellant, has been rejected.

3. It has been contended by the learned counsel for the

appellant that the informant of the case is not an eye witness to the occurrence and even during investigation nothing has transpired against the appellant. At best, the appellant can be said to be a member of the unlawful assembly and, hence, the order passed by the court below is fit to be set aside.

4. Per contra, learned Special Public Prosecutor for the State has submitted that it is true that the informant is not an eye witness to the occurrence, but the First Information Report has been instituted by him on the basis of disclosure made by one Brajesh Das whose statement is recorded in paragraph 8 of the case diary wherein it has clearly been that the appellant and one Ano Khan caught hold of the deceased and co-accused Monawwar Khan shot him dead. He has further contended that one Dinesh Das and Mahendra Bhuiyan, whose statement has been recorded in paragraphs 4 and 5 of the case diary, have also corroborated the statement of Brajesh Das.

5. I have heard learned counsel for the parties and perused the materials available on record.

6. Having regard to the fact that the appellant is alleged to have actively participated in the commission of crime, I find no illegality in the order impugned passed by the court below. Accordingly, the appeal, being devoid of any merit, is dismissed.

7. Since the appellant is in custody, the trial court is

directed to conclude the trial expeditiously taking into consideration the statutory provision prescribed under Section 14 of the SC and ST Act.

(Ashwani Kumar Singh, J)

Md.S./-

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