

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1797 of 2019

Arising Out of PS. Case No.-280 Year-2017 Thana- BODHGAYA District- Gaya

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Shankar Kumar (Male), aged about 25 years, son of Chanarik Yadav @
Ganauri Yadav, resident of village Akhanpur, Police Station Alipur, District
Gaya.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manish Kumar No-2, Adv.

For the Opposite Party/s : Mr. Jai Narain Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

3 18-02-2019 Heard learned counsels for the petitioner and the
State.

The petitioner is languishing in custody since 31.08.2018
in a case registered for the offences punishable under Section
365 of the IPC and later on Sections 302, 120(B), 365 and 34 of
the I.P.C.

The prosecution case, as per the written report of Devendra
Kumar Yadav dated 05.05.2017 submitted to the Station House
Officer, Bodh Gaya Police Station, is to the effect that on
28.04.2017 at about 10.00 A.M., the informant along with his



cousin brother, Naresh Kumar Yadav was going to attend a marriage ceremony at Manpur, Gaya. On the way, at about 01.00 P.M., the cousin brother of the informant, Naresh Yadav asked him to stop the motorcycle and called his friend through mobile phone. Thereafter, he went in the company of his friend. When the cousin brother of the informant did not return, then the informant made a call on his mobile whereupon his cousin brother conveyed the informant that he is coming in ten minutes but he did not return and subsequently, his mobile phone was found switched off, leading to registration of FIR against unknown. It is further alleged that the name of the petitioner sprang up on the confessional statement of the co-accused, Ranjan Kumar @ Lawlesh Kumar.

It is submitted by learned counsel for the petitioner that the petitioner is not named in the FIR and his name sprang up on the confessional statement of the co-accused, Ranjan Kumar @ Lawlesh Kumar. Moreover, except confession of the co-accused, no cogent material has been found against the petitioner. It is further submitted that similarly situated co-accused persons have been granted bail by different Co-ordinate Benches of this Court.

Learned APP after going through the case diary submits



that only supplementary case diary has been received which does not suggest any cogent material against the petitioner.

Considering the fact that the petitioner was not named in the FIR and similarly situated co-accused persons being granted privilege of bail, let the above named petitioner be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned **C.J.M., Gaya**, in connection with **Bodh-Gaya P.S. Case No.280 of 2017**.

The impugned order suggests that in spite of repeated adjournments, the case diary was not produced before the learned Court below. The relevant part of the impugned order reads as follows:-

“Heard both the parties and perused the case record. Even after repeated adjournments the prosecution failed to produce case diary before the court. Learned defence counsel insisted for early disposal on bail petition without awaiting of case diary. From perusal of the case record it appears that the allegations against the petitioner is of very serious in nature.”

This Court vide order dated 15.01.2019, called for the case diary but before this Court also, only supplementary case diary has been produced, which suggests the callous manner in which the offices of the C.J.M., Gaya as well as Sr.



S.P. Gaya are functioning. Let both the orders be transmitted to Sr. S.P., Gaya as well as District Judge, Gaya to look into the matter so that in future the offices of CJM and Sr. S.P., Gaya will meticulously comply the order of this Court.

(Dinesh Kumar Singh, J)

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