

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1398 of 2019**

Arising Out of PS. Case No.-49 Year-2019 Thana- GAYA MUFASIL District- Gaya

1. NAGENDAR @ NAGENDRA YADAV Son of Muneshwar Yadav, Resident of Village Maniara, P.S.- Muffasil, District- Gaya.
2. Sarwan Yadav, Son of Raj Kumar Yadav, Resident of Village Belsar, P.S.- Atri, District- Gaya.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 1732 of 2019

Arising Out of PS. Case No.-49 Year-2019 Thana- GAYA MUFASIL District- Gaya

BALESHWAR YADAV Son of Muneshwar Yadav Resident of Village - Maniara, P.S.- Mofassil, District- Gaya

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 1398 of 2019)

For the Appellant/s : Mr.Syed Ehteshamuddin

For the Respondent/s : Mr.Usha Kumari 1

(In CRIMINAL APPEAL (SJ) No. 1732 of 2019)

For the Appellant/s : Mr.Syed Ehteshamuddin

For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

5 11-07-2019 As both these appeals have cropped up from the same P.S. Case, hence aforesaid two appeals are being heard together and disposed of by this common order.

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



This is an appeal under Section 14(A)(2) of the SC/ST Act against the refusal of prayer for bail vide order dated 12.03.2019 passed by learned Exclusive Special Judge, SC/ST Act, Gaya in Muffassil P.S. Case No. 49 of 2019 (G.R. No. 712 of 2019) registered under Sections 364, 302, 201 and 120(B)/34 of the Indian Penal Code and Sections 3(i)(r)(s) of the SC/ST Act.

Appellants along with five other accuse persons are said to have kidnapped the son of the informant and subsequently eliminated him while he was proceeding on motorcycle along with his nephew Bablu Paswan after fetching petrol from the petrol pump.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case due to animosity. There is no eye witness of the occurrence. Deceased Vikas Paswan is said to have been kidnapped by the appellants in presence of his nephew Bablu Paswan and Bablu Paswan in Para-4 of the case diary has stated that he had identified three persons in the light of the motorcycle during the occurrence whom he had witnessed in the court in connection with Moffassil P.S. Case No. 320 of 2018 lodged by the appellant



Baleshwar Yadav against the deceased Vikas Paswan. But no T.I.P. in the case has been conducted by the I.O. to get said three persons identified by Bablu Paswan. I.O. has allegedly recorded confessional statement of appellants Baleshwar Yadav and Nagendra Yadav in presence of Rajiv Kumar and Satish Kumar, but said Rajiv Kumar and Satish Kumar have not been examined by the I.O. during the course of investigation and there is no statement of the said persons in the case diary. Aforesaid confessional statement has not led to any recovery, hence said confessional statement has no evidentiary value in the eye of law. Barring the aforesaid confessional statement, there is no convincing material on record indicating the complicity of the appellants in the occurrence. Appellants have been languishing in custody since 14.02.2019.

On the other hand, learned Spl. PP for the State opposing the bail petition submitted that appellants along with other accused persons have committed murder of the deceased after kidnapping him and subsequently disposed of his dead body, hence appellants do not deserve bail.

In the facts and circumstances of the case, the above named appellants are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with



two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST Act, Gaya in connection with Mufassil P.S. Case No. 49 of 2019 (G.R. No. 712 of 2019.

Accordingly, the impugned order is set aside and aforesaid two appeals are allowed.

(Prakash Chandra Jaiswal, J)

mantreshwar/-

U		T	
---	--	---	--

