

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1144 of 2020

Arising Out of PS. Case No.-23 Year-2018 Thana- MAIGRA District- Gaya

SOMAR YADAV S/o Ram Kishun Yadav @ Kishun Manto R/o village-
Harhi, P.S.- Maigra, District- Gaya

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Md. Javed Jafar Khan Adv.
For the Respondent/s : Mr.Binay Krishna, Spl PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

7 19-08-2020 As of now the Courts have not resumed normal physical hearing, the matter has been listed today for consideration through the video conferencing.

Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings from their homes, all with the aid of audio visual technology.

The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Caste and Scheduled Tribes(Prevention of Atrocities) Act,1989 against the refusal of prayer for regular bail vide order dated 21.02.2019 passed by learned Spl Judge, SC/ST Act, Gaya



in Maigra P. S. case no. 23 of 2018 registered under Sections 448,302,201,34,120B of the IPC and Section 3(1)(S)/3(2)(va) of the SC & ST Act and Section 3/4 of the Prohibition of Witch Act.

Prosecution case in short is that on 29.08.2018 at about 10.30 PM informant was sleeping with her husband and the accused/petitioner with other co-accused Ajay Yadav took informant's husband with them and thereafter he did not return and on 30.08.2018 the dead body of the informant's husband was found in ditch (Pucca Bandh).

Learned advocate appearing on behalf of the petitioner submits that accused is quite innocent and allegation is that he has falsely been implicated in this case and there is no eye witnesses of the alleged offences and there is land dispute between informant and accused persons. It is alleged in the FIR that informant's husband was taken away by the petitioner forcibly at 10.30 P.M. on 29.08.2018. The FIR, however, has been lodged on 31.08.2018, showing that information was received in the police station at 5.15 PM on 30.08.2018. Such delay renders the entire prosecution case doubtful.



The learned Spl. P. P. vehemently opposed the prayer for bail. The petitioner had earlier moved for grant of bail. This Court, on 09.07.2019, while rejecting the prayer, had directed the trial Court to conclude the trial expeditiously and preferably within 09 months from the date of commitment of the case. The petitioner is in custody since 11.09.2018 and has no criminal antecedents. The report, dated 08.06.2020, received from the Trial Court shows that the trial is far from conclusion today.

Considering the rival submissions, this appeal is allowed. The impugned order dated 21.02.2019 passed by the learned Spl Judge, SC/ST Act, Gaya in Maigra P. S. case no. 23 of 2018 is set aside.

Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ ST, Gaya, in Maigra P. S. case no. 23 of 2018 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy



as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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