

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1338 of 2020**

Arising Out of PS. Case No.-37 Year-2020 Thana- BODHGAYA District- Gaya

1. RAJENDRA MISTRI Son of Late Ram Swaroop Mistri Resident of Village-Parhanda, P.S.-Bodh Gaya (Cherki), District-Gaya.
2. Shambhu Mistri Son of Rajendra Mistri Resident of Village-Parhanda, P.S.-Bodh Gaya (Cherki), District-Gaya.
3. Shankar Kumar @ Chhotu @ Chhotu Kumar Son of Rajendra Mistri Resident of Village-Parhanda, P.S.-Bodh Gaya (Cherki), District-Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anil Kumar

For the Respondent/s : Mr. Nityanand Tiwary, APP

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

2 07-10-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For Orders’ under the orders of Hon’ble the Chief Justice.

Re. I.A. No. 1 of 2020

The present interlocutory application has been filed on behalf of the appellants for condoning the delay in filing the instant appeal.

For the reasons stated in paragraph nos. 2, 3 and 4 of the I.A. and the submissions made in support thereof, I.A. No. 1 of 2020 is allowed. The delay in filing the instant appeal is



condoned.

Re. Cr. Appeal (SJ) No. 1338 of 2020

Heard learned counsels for the parties.

The matter relates to grant of anticipatory bail to the appellants in connection with Bodh Gaya (Cherki) P.S. Case No. 37 of 2020 registered for the offences under Sections 302, 201/34 of the Indian Penal Code and 3(i) (r)(s), 3(2)(v) of SC/ST Act.

The prosecution case, in brief, is that the husband of the informant left for Gaya to withdraw money and did not return. Later, his dead body was found in the field. The informant suspects the accused persons hatched conspiracy and killed her husband and threw dead body in the field.

It has been submitted on behalf of the appellants that the appellants have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellants. The appellants have falsely been implicated in the present case. Except for suspicion, there is no other substantive evidence to suggest their implication in the present case. There is no eye witness to the alleged occurrence nor there is any circumstantial evidence to suggest the involvement of the appellants in the present case. No occurrence is said to have



taken place within public view. Hence, no offence under SC/ST Act is made out in the present case.

On behalf of the State, it is submitted that the appellants are named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 28.02.2020 passed by the Exclusive Special Judge, SC/ST Gaya in A.B.P. No. 52 of 2020, arising out of Bodh Gaya (Cherki) P.S. Case No. 37 of 2020, is set aside. The criminal appeal is allowed.

Accordingly, the appellants , above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Gaya in connection with Bodh Gaya (Cherki) P.S. Case No. 37 of 2020.

(Sudhir Singh, J)

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