

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.597 of 2020

Arising Out of PS. Case No.-50 Year-2019 Thana- SC/ST District- Gaya

1. Birendra Mistri, aged about 45 years, Male, Son of Late Rameshwar Mistri, Resident of Village Pachhatti, Sujata Bypass Road, Near Kaushalya Guest House, P.S. Bodh Gaya, District Gaya.
2. Shailesh Kumar, aged about 22 years, Male, Son of Vinod Mistri, Resident of Village Pachhatti, Sujata Bypass Road, Near Kaushalya Guest House, P.S. Bodh Gaya, District Gaya.
3. Kanti Devi, aged about 40 years, Female, Wife of Birendra Mistry, Resident of Village Pachhatti, Sujata Bypass Road, Near Kaushalya Guest House, P.S. Bodh Gaya, District Gaya.
4. Santosh Kumar, aged about 25 years, Male, Son of Birendra Mistry, Resident of Village Pachhatti, Sujata Bypass Road, Near Kaushalya Guest House, P.S. Bodh Gaya, District Gaya.
5. Ravi Kumar, aged about 20 years, Male, Son of Birendra Mistry, Resident of Village Pachhatti, Sujata Bypass Road, Near Kaushalya Guest House, P.S. Bodh Gaya, District Gaya.
6. Sunita Devi, aged about 40 years, Female, Wife of Manohar Mistri, Resident of Village Pachhatti, Sujata Bypass Road, Near Kaushalya Guest House, P.S. Bodh Gaya, District Gaya.
7. Punna Mistri @ Puna Sharma @ Puna Mistri, aged about 40 years, Male, Son of Late Siyaram Mistri, Resident of Village Pachhatti, Sujata Bypass Road, Near Kaushalya Guest House, P.S. Bodh Gaya, District Gaya.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Shailesh Kumar, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Special P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 08-03-2021 Heard both sides.

The appellants, seven in numbers, filed this appeal under Section 14(A)(2) of the SC/ST Act against the order dated 10.01.2020, passed by learned Special Judge, SC/ST., Gaya in



ABP No.07 of 2020, by which the prayer for grant of anticipatory bail of the appellants has been rejected in SC/ST P.S. Case No.50 of 2019, registered under Sections 341, 323, 354, 379, 504 and 34 of the Indian Penal Code and under Sections 3(1)(r)(s)(w)(i) of the SC/ST Act.

Learned counsel for the appellants submits that earlier the daughter of the informant filed Bodhgaya P.S. Case No.309 of 2019, registered under Sections 341, 323, 504, 506 and 354 of the Indian Penal Code against Shailesh Kumar, the appellant no.2, and Shailesh Kumar is on bail in that case. It is submitted that the police after investigation submitted final form finding the case false. The appellants have been made accused at the instance of the informant in a false and concocted case. The occurrence is said to have taken place on 24.06.2019, but the complaint petition was filed only on 20.08.2019, about two months after the occurrence and this fact itself shows the falsity of the case. It is further submitted that an informatory petition was given on behalf of the appellants about their false implication on the instance of the informant and her family members.

Taking into consideration the fact that appellant no.2 is alleged to have misbehaved with the daughter of the informant on earlier occasion also, I am not inclined to enlarge the appellant no.2 on anticipatory bail. Accordingly, the prayer for anticipatory



bail of appellant no.2, namely, Shailesh Kumar is rejected and the appeal on his behalf is dismissed.

So far as the case of other appellants qua appellants no.1, 3, 4, 5, 6 and 7, I find that they deserve anticipatory bail on the facts of the case as the complaint was filed after two months of the occurrence. Accordingly, the appeal on behalf of appellants no.1, 3, 4, 5, 6 and 7 is allowed. The order dated 10.01.2020, passed by learned Special Judge, SC/ST., Gaya in ABP No.07 of 2020 is set aside.

Appellants No.1, 3, 4, 5, 6 and 7, above named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt of the order, be enlarged on bail on furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST, Gaya in connection with SC/ST P.S. Case No.50 of 2019, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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