

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3903 of 2021

Arising Out of PS. Case No.-147 Year-2021 Thana- HARSIDHI District- East Champaran

SHIVJEE YADAV @ SHIVAJEE YADAV Son of Chandradev Yadav @
Chandradev Raut Resident of Village - Kamal Pipra, P.S. - Paharpur, District -
East Champaran at Motihari.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bhola Prasad, Adv.
Mr.Indrajeet Kumar, Adv.
For the Respondent/s : Mr.Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

2 14-12-2021 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State through virtual mode.

Learned counsel for the appellant is directed to remove the defects, as pointed out by the office, within four weeks. In the eventuality of non-removal of defects within stipulated period, office will place the matter before the Bench.

This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 16.08.2021, passed by learned 1st Additional Sessions Judge -cum- Special Judge (SC/ST), East Champaran, Motihari, in connection with Harsidhi P.S. Case No.147 of 2021, registered under sections



302, 201, 120(B)/34 of the IPC and sections 3 (2) (V) of the SC and ST Act.

The prosecution case in brief, is that the informant's wife was allured by the appellant, who took her away for marriage purpose. It is alleged that the appellant always abused him by caste name. Thereafter, his wife was killed by the accused persons including the appellant and her dead body was concealed.

It is submitted by learned counsel for the appellant that the appellant is innocent and has not committed any such offence. He has been falsely implicated in the case merely on suspicion. There is no eye-witness to the alleged occurrence. AS per the allegation, informant's wife left him on 16.04.2021 for getting married with the appellant but the FIR has been lodged after 15 days i.e. on 30.04.2021 without any explanation for such delay, which creates doubt about the prosecution case. It is further submitted that there is no material or evidence to show that the appellant has abused the informant or his wife. The accusation does not constitute any offence under SC/ST Act is made out inasmuch as there is no allegation that the alleged occurrence has taken place in public view. The appellant has no criminal antecedent and has been languishing in custody since



01.05.2021.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstance of the case, since there is no eye-witness of the alleged occurrence and that the FIR has been lodged after a delay of 15 days, the above named appellant is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge -cum- Special Judge (SC/ST), East Champaran, Motihari, in connection with Harsidhi P.S. Case No.147 of 2021.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Anjani Kumar Sharan, J)

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