

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.203 of 2022

Arising Out of PS. Case No.-193 Year-2019 Thana- AMAS District- Gaya

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DURGA YADAV Son of Nandan Yadav @ Dev Nandan Yadav Resident of
Village - Babhandi, P.S.- Amas, Distt.- Gaya.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Renu Devi Wife of Sanjay Kumar Resident of Village- Rani Kuan, P.S.-
Madanpur, District- Aurangabad

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Krishna Singh, Sr. Adv Mr. Rakesh Singh, Adv
For the Respondent/s	:	Ms. Usha Kumari 1, Spl.PP
For the Informant	:	Mr. Ashutosh Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 30-03-2022 Heard learned counsel for the appellant and the learned

Special P.P. for the State as well as learned counsel for the

informant.

This Court would expect that the appellant's counsel
would honour his undertaking in the instant proceedings
regarding supply of the requisite court fee etc. within two weeks
from the date he is called upon to do so by the office.

The appellant has preferred the present appeal under
Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act against the refusal of his prayer
for bail, vide order dated 26.11.2021 passed by the learned
Exclusive Judge, SC/ST, Gaya arising out of Amas P.S. Case



No. 193 of 2019 instituted for the offence under Sections 363, 365 of the Indian Penal Code. Later on Sections 364, 302, 201, 120B and 34 of the IPC and Section 27 of the Arms Act have been added. Thereafter, charge sheet has been submitted under Sections 3(2)(v) of the SC/ST Act.

The appellant had earlier moved for grant of bail in Criminal Appeal (SJ) No. 1143/2020. The prayer was rejected on 01.07.2020.

Criminal Appeal (SJ) No. 348 of 2021 was thereafter filed, which was disposed of to enable the appellant to approach the court of Exclusive Special Judge SC/ST, Gaya before renewing his prayer before this Court. The said Criminal Appeal (SJ) was disposed of on 27.10.2021.

This is the third application for bail.

Learned senior counsel for the appellant submits that the appellant, by now, has remained in custody for nearly two years and four months. The submission is that even, as per the prosecution case, the victim had accompanied co-accused Uday Kumar Verma who later informed that he had parted ways. The recovery of the dead body of the informant's husband, two days later, led to lodging of the FIR in question. Learned senior counsel submits that, at best, it is a case of suspicion as the



allegation is that dead body was recovered from the appellant's land. The suspicion is also arising out of the fact that the appellant's son has taken money on the pretext of getting a Government job and for these reasons, the appellant has been implicated in this case.

Learned Special PP as well as learned counsel for the informant has opposed the prayer for bail. It is submitted that the material in the investigation shows that the instant appellant was accompanying or participating in collection of money along with his son for providing jobs.

The specific averment of the appellant's counsel that out of twelve charge-sheeted witnesses only one has partly been examined, is not specifically controverted by the learned counsel for Opposite Party No. 2, though he submits that the trial is going on.

Considering the aforesaid submissions, the fact that implication of the appellant is based on suspicion, there is no progress at the trial as also the fact that the appellant has remained in custody for nearly two years and four months, and he is on bail in Amas P.S. Case No. 229/2019 and Gurua P.S. Case No. 26/2020, however there is no allegation of misuse of bail, this Court is inclined to allow appellant's prayer for bail.



Accordingly, let the appellant, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Judge SC/ST, Gaya in connection with Amas P.S. Case No. 193 of 2019.

In the result, the appeal is allowed and the impugned order dated 26.11.2021 is set aside.

(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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