

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4674 of 2021

Arising Out of PS. Case No.-237 Year-2020 Thana- BODHGAYA District- Gaya

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Nanka Yadav @ Nanku Yadav @ Nanhak Yadav @ Dhananjay Yadav @
Dhananjay Kumar S/O- Late Shiva Yadav Resident of Village- Neutapur, P.S.-
Bodhgaya, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Anarwa Devi W/o Late Prasad Manjhi Resident of Maunia Ward No.05,
P.S.- Bodhgaya, District- Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Bhaskar Shankar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 21-09-2022 1. Heard learned counsel for the appellant and learned
Special P.P. for the State.

2. The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') against the order dated 13.09.2021 passed by the learned Exclusive Special Judge, (SC/ST), Gaya in connection with Bodhgaya P.S. Case No. 237 of 2020 registered under Sections 302 and 34 of the Indian Penal Code and Section 3(1) (r) (s) of SC/ST Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. It appears from service report that on repeated



attempt, informant was not available at given/available address and accordingly, notice was affixed on the front wall of the house. Informant failed to join present proceeding.

5.Learned Spl.P.P. was also submitted that information has already given to informant through local SHO.

6. Appellant is named in F.I.R. and is in custody since 26.12.2020.

7. The allegation against the appellant is to commit murder of son of the informant, alongwith other co-accused persons/family members, where wife of deceased found in extra-marital affairs with appellant.

8. Learned counsel for the appellant submitted that the appellant is not the eye witness of the occurrence. It is further submitted that admittedly, occurrence took place in a closed room. It is also submitted that the minor daughter of deceased, as claimed to be present inside the room, is also not disclosing any fact, which may suggest that she is the eye witness of the occurrence. It is submitted that act of the appellant is not suggesting that any atrocities was committed as defined under the Act. While concluding the argument, it is submitted that investigation of this case is completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering



with the evidence.

9. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in ***State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276.***

10. Learned Special P.P. for the State, while opposing the prayer of bail, submitted that the circumstances clearly suggest that appellant was actively participated in commission of murder of son of the informant, as he found running away from the place of occurrence, immediately, after committing the alleged offence.

11. A report was called for from the Trial Court regarding stage which clearly speaks that charge was framed on 26.04.2022 and not even a single prosecution witness examined till date, clearly indicating thereof, that trial is not likely to conclude in near future, where appellant is in custody since 26.12.2020.

12. In view of the facts and circumstances, as mentioned above, as informant is not the eye witness of the occurrence, where implication is based upon circumstances, in the background that trial is not likely to conclude in near future,



let the appellant, above named, is directed to be released on bail in connection with Bodhgaya P.S. Case No. 237 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST, Gaya/concerned Court, subject to the conditions as laid down u/s 437(3) of the Cr.P.C.

13. Accordingly, impugned order dated 13.09.2021 is set aside.

14. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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