

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1291 of 2023

Arising Out of PS. Case No.-142 Year-2020 Thana- BODHGAYA District- Gaya

Munna Kumar @ Munna Yadav Son Of Kapil Yadav Resident Of Village -
Moratal, P.S. - Bodh Gaya, District - Gaya

... .. Appellant/s

Versus

1. The State Of Bihar
2. Sonya Devi Wife Of Sudhir Manjhi Resident Of Village - Zarhara, P.S. -
Bodh Gaya, Distt. - Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Md. Murad Ashraf, Advocate
For the State	:	Mr.Binay Krishna, Spl. P.P.
For Respondent No. 2	:	Mr. Nand Kumr Sagar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 19-04-2023

Heard learned counsel for the appellant, learned
Spl.PP for the State and learned counsel for the respondent no.
2-informant.

2. This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail by
order dated 28.01.2023 passed by the learned Exclusive Special
Judge SC/ST Act, Gaya in connection with Bodh Gaya P.S. Case
No. 142 of 2020, registered on 27.04.2020 for the alleged
offences under Section 376 of the Indian Penal Code and
Sections 3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989.



3. As per the prosecution case, the appellant entered into the house of the informant in the dead of night and threatening her with murder of her two children forcibly raped her.

4. The learned counsel for the appellant submits that the appellant has falsely been implicated in this case and he is innocent. For the occurrence which took place on 20.04.2020, the FIR has been registered on 27.04.2020. No occurrence as alleged has ever taken place. A number of witnesses have been examined before the learned trial court including the informant, her mother-in-law and father-in-law but none of them have supported the prosecution case. The informant has even denied knowing the appellant and has also denied the commission of rape. She has further denied her statement recorded before the court during investigation. Learned counsel further submits that nothing remains in the matter. The appellant is in custody since 01.11.2021. Learned counsel further submits that due to the fact that court has been vacant, the trial is not proceeding further and there is no likelihood for conclusion of trial in near future.

5. Learned Spl.PP as well as learned counsel for the informant/respondent no.2 vehemently oppose the contention of the appellant. Learned counsel for the respondent no. 2



though concede that the informant has not supported the case against the appellant.

6. Having regard to the facts and circumstances, submissions made on behalf of the parties and considering the fact that the appellant is in custody for about one and half years and there is no likelihood of trial being concluded in near future, the appellant above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty 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 P.S. Case No. 142 of 2020, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

7. Accordingly, the order dated 28.01.2023 passed in



Bodh Gaya P.S. Case No. 142 of 2020 by learned Exclusive
Special Judge SC/ST Act, Gaya is set aside and this appeal
stands allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.04.2023
Transmission Date	20.04.2023

