

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1347 of 2023

Arising Out of PS. Case No.-323 Year-2014 Thana- BODHGAYA District- Gaya

Manish Kumar @ Manish S/O Late Munni Raut @ Late Munni Bhagat
R/O Village- Nawa, P.S- Bodhgaya, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Sharda Devi W/O Not Known R/O Village- Nawa Mahadalit Tola, P.S- Bodhgaya, District Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Manisha Prakash, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 23-06-2023 1. Heard learned counsel for the appellant, learned Special P.P. for the State on point of admission and on merit also.

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 10.02.2023 passed by the learned Court of Exclusive Special Judge, SC/ST Act Gaya in connection with Bodhgaya P.S. Case No. 323 of 2014 registered under Sections 448, 380, 504 of the Indian Penal Code, and Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. Present appeal is well within limitation as



prescribed under Section 14A(3) of the Act.

4. Learned Spl. P.P., Mr. Sadanand Paswan submitted before this Court that information has already given to informant through SSP Gaya in terms of order dated 08.05.2023, but informant failed to join proceeding despite information.

5. Appellant is named in F.I.R. and is in custody since 07.01.2023.

6. The allegation against the appellant is to commit theft of Rs. 35,000/- from the house of informant alongwith other co-accused persons with further allegation of criminal trespass.

7. Learned counsel for the appellant submitted that the appellant was given benefit of Section 41 of the Cr.P.C., during investigation and as he was arrested in other cases, remanded in this matter as in the meantime the charge-sheet has been submitted in this case. It is submitted that allegation as to take away cash of Rs. 35,000/- from the house of informant is appearing false on its face as no any such recovery was made from the appellant. It is submitted that from the narration of F.I.R. itself, nothing can be gathered, which may suggest the act of appellant as an atrocities within the meaning of the Act. While concluding the argument, it is submitted that petitioner



found involved in 3 more criminal cases, where he is on bail and moreover, investigation of this case has been completed, for which charge-sheet has been submitted, as such there is no chance of tampering with the evidence.

8. 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.***

9. Learned Special P.P., while opposing the prayer of bail submitted that the allegation is specific against this appellant.

10. In view of the facts and circumstances, as appellant was given benefit of Section 41 of the Cr.P.C. during investigation, where no any such recovery appears to be made to connect appellant, *prima facie*, with present allegation coupled with the fact that charge-sheet has already submitted, where appellant is in custody since 07.01.2023, let the appellant, above named, is directed to be released on bail in connection with Bodhgaya P.S. Case No. 323 of 2014 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 mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 10.02.2023 is set aside.

12. Hence, appeal is allowed.

(Chandra Shekhar Jha, J)

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