

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1068 of 2024

Arising Out of PS. Case No.-626 Year-2023 Thana- BODHGAYA District- Gaya

Chhotu Kumar @ Anda S/o Vishwanath Singh R/o vill - Pacchatti, P.S. - Bodhgaya, Distt. - Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Sonam Kumari D/o Suresh Das R/o vill - Dhangai, P.S. - Dhangai, P.O. - Patluka, Dist. - Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Tabish Sharfuddin
For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 23-08-2024 Heard learned counsel for the appellant and learned Special Public Prosecutor for the State.

2. Learned Spl. PP for the State, in compliance of order dated 28.06.2024, informed the informant/complainant. Nobody appeared on behalf of the informant/complainant.

3. This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the SC/ST Act), against the refusal of prayer of bail vide order dated 20.01.2024 passed by learned Special Judge, SC/ST, Gaya in connection with Bodhgaya P.S. Case No. 626 of 2023 registered under Sections 376(D), 120(B), 34 of the Indian Penal Code and Section 3(ii), 3(2)(v) of the Scheduled Castes and Scheduled



Tribes (Prevention of Atrocities) Act.

4. As per the prosecution case, the appellant along with other co-accused persons are said to have committed rape upon the victim.

5. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. There is no allegation of slating the informant in the specific name of his caste. He submits that nothing has been recovered from the conscious possession of the appellant rather the appellant has been implicated in this case only on the basis of the confessional statement of the co-accused. He submits that the co-accused who disclosed the name of the petitioner in his confessional statement has already been granted regular bail by the learned Court below. Appellant has got no antecedent as mentioned in para-3 of memo of the appeal and has been languishing in custody since 08.11.2023.

6. Learned Spl. PP for the State opposes prayer for bail.

7. Considering the facts and circumstances of the case and the fact that there is no specific overt act against the appellant, let the above named appellant, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five



Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST, Gaya in connection with Bodhgaya P.S. Case No. 626 of 2023, subject to the following conditions:

(i) One of the bailors will be his own blood relative, preferably, father, mother, brother, sister and/or his wife.

(ii) The bailor shall also state on affidavit that he will inform the court concerned if the appellant is made accused in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on ground of misuse.

(iii) The appellant shall remain physically present in court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reasons, his bail bonds shall be liable to be cancelled by the learned court concerned.

(iv) The appellant shall co-operate with the investigation, if not already concluded and make himself available and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.



(v) The appellant will mark his attendance in the local police station in first week of every month till conclusion of trial, failing which the prosecution will be at liberty to move cancellation of his bail bond.

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

(Anjani Kumar Sharan, J)

anand/-

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