

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5296 of 2023

Arising Out of PS. Case No.-119 Year-2019 Thana- TANKUPPA District- Gaya

Kalu Yadav @ Anil Yadav @ Mukesh Kumar (Male), aged about 36 years,
son of Janki Yadav, resident of Village- Thekhi, Police Station- Fatehpur,
District- Gaya

... .. Appellant/s

Versus

1. The State Of Bihar
2. Kaili Devi (Female), aged about 38 years, wife of late Rambali Manjhi,
resident of village- Thekahi, Police Station- Fatehpur, District - Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Manish Kumar, Advocate
For the State	:	Mr. Binay Krishna, Special PP
For the OP No.2	:	Mr. Avinash Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

6 10-05-2024 Mr. Avinash Kumar Singh, learned counsel appears on
behalf of the opposite party no. 2 and submits that he has
already filed *vakalatnama* in this case.

2. Accordingly, at the request of the parties, the case is
taken for hearing on the point of admission.

3. Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State as well as learned
counsel for the opposite party no. 2.

4. This appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989, (hereinafter referred to “SC/ST Act”) has



been preferred against the order dated 05.10.2023 passed by the Exclusive Special Juge, SC/ST Act, Gaya, in B. P. No.454 of 2023 by which prayer of the appellant for grant of regular bail has been rejected in Tankuppa PS Case No.119 of 2019 dated 18.11.2019 instituted under Sections 302, 120-B/34 of the Indian Penal Code and Section 3(1)(r)(s)/ 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

5. The prosecution case, in short, is that when the informant was going alongwith her husband, 9-10 unknown persons came there and took the husband of the informant another place. When the informant and his family members started searching, his dead body was found lying 150 meters away from the village.

6. Learned counsel for the appellant submits that the appellant is innocent and he has been falsely implicated in this case. The appellant is not named in the FIR which is lodged against unknown persons. Name of the appellant has been dragged in this case only on the basis of confession made by co-accused, Santosh Yadav as well as the informant, Kaili Devi. It is further submitted that confession of Santosh Yadav was recorded in another case i.e., Bodhgaya PS Case No.511 of 2019



and thereafter he has been implicated in this case. Further submission is that except the confessional statement there is nothing against the appellant to show his involvement in the present case. Further submission is that there is no allegation in the FIR, at all, to make out a case under SC/ST Act. It is also submitted that co-accused, Santosh Yadav, and Kaili Devi, in whose confession name has of the appellant has come have been granted by a co-ordinate Bench of this Court as well as by this Court by order dated 16.02.2022 passed in Cr. Misc. No. 71893 of 2021 and order dated 21.09.2022 passed in Cr. Misc. No.13202 of 2022 respectively. Lastly, it has been submitted that the appellant is in custody since 25.02.2023 and two criminal cases are pending against him.

7. Learned Special Public Prosecutor has opposed the prayer for bail of the appellant.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the appellant be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Exclusive Special Judge, SC/ST Act, Gaya, in Tankuppa PS Case No.119 of 2019, subject to the conditions (i) that the petitioner shall co-operate in the trial and



shall be properly represented on each and every date fixed by the Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below, (ii) that one of the bailors will be his own blood relation, preferably father, mother, brother, sister and or his wife, (iii) that the bailor shall also state on affidavit that he will inform the court concerned if the petitioner 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, and (iv) that if the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

9. Accordingly, the order dated 05.10.2023 passed by the Exclusive Special Judge, SC/ST Act, Gaya, in B. P. No.454 of 2023 in connection with Tankuppa PS Case No.119 of 2019 is hereby set aside.

10. The appeal stands allowed.

(Khatim Reza, J)

J. Alam/-

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