

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1067 of 2025

Arising Out of PS. Case No.-454 Year-2024 Thana- BODHGAYA District- Gaya

Adil Hasan @ Adis Khan Son Of Fayaz Khan Resident Of Village-Hathiyar
PS -Bodhgaya District -Gaya

... .. Appellant/s

Versus

1. The State of Bihar bihar
2. Awadesh Kumar Choudhary Son of Raju Choudhary village- Hathiyar Ward
no. 32, Ps- Bodhgaya Dist- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ashok Kumar, Advocate
For the State	:	Mr. Binay Krishna, Spl.P.P.
For the Informant	:	Mr. Rashid Izhar, Advocate
		Mr. Adil Abbas, Advocate

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 26-05-2025 Heard the learned counsel for the appellant, learned

Special Public Prosecutor for the State as well as learned

counsel for the informant.

2. The present appeal has been filed against the order dated 05.02.2025 passed by learned Exclusive Special Judge SC/ST, Gaya whereby and whereunder the prayer for bail of the appellant in connection with A.B.P. No. 382/2024 arising out of Bodhgaya P.S. Case No. 454/2024 for the offence punishable under Sections 191(2), 190, 126(2), 115(2), 118(1), 109 of B.N.S. read with Sections 3(1)(r)(s)(2)(Va) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act was rejected.



3. As per prosecution case, appellant and others are said to have assaulted the informant by means of hockey stick and iron rod as a result of which he sustained head injury. It is alleged that co-accused Khaje Hasan assaulted the informant by means of sword with an intention to kill him upon his head as a result of which he sustained head injury. It is alleged that co-accused Atshayam Anshari took out the mobile from the pocket of informant.

4. Learned counsel for the appellant submits that there is no specific allegation of assault against the appellant rather the allegation of assaulting the informant is attributed against co-accused Khaje Hasan. Appellant is quite innocent and has committed no offence as alleged in the FIR. He further submits that appellant being gotiya of co-accused Khaje Hasan, he has falsely been implicated in the present case. He further submits the appellant has no say in the affairs of informant as well as co-accused Khaje Hasan. In the light of the aforesaid facts and circumstances of the present case, no case is made out against the appellant under the provisions of SC/ST Act. He further submits that appellant and others are said to have assaulted the informant by means of hockey stick and iron rod but injury report of informant indicates that informant has sustained only



one injury on head which totally falsifies the case of prosecution. He further submits that the injury sustained by the informant is found to be simple in nature, as mentioned in Annexure 2 of the memo of appeal. Appellant bears no criminal antecedent. Learned counsel orally submits that appellant shall submit an undertaking before the learned trial court that he will not commit any offence of similar nature in future. He further submits that appellant will not abscond rather will cooperate in the investigation to prove his innocence.

5. Learned Special Public Prosecutor for the State as well as learned counsel for the informant opposed the prayer for anticipatory bail of the appellant by submitting that the appellant does not deserve anticipatory bail as he has committed the occurrence against the informant who belongs to the SC/ST community.

6. Considering the facts and circumstances of the case, keeping in view clean antecedent of appellant, there is no specific allegation against the appellant, argument advanced on behalf of both sides and also taking into consideration the material available on record, the order dated 05.02.2025 passed by learned Exclusive Special Judge SC/ST, Gaya is set aside and the present appeal is allowed. The appellant, above-named, in



the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail 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 in connection with Bodh Gaya P.S. Case No. 454 of 2024, subject to the conditions as laid down under Section 482 (2) of BNSS.

7. However, it is made clear that appellant shall submit an undertaking before the learned trial court that he will not commit any offence of similar nature in future failing which the learned trial court shall be at liberty to cancel the bail bond of the appellant.

8. Further, it is also made clear that if the Investigating Officer of the case files an application before the learned trial court bringing to its notice that the appellant despite giving assurance to this Court is not co-operating in the investigation, in that event, the learned trial court shall be at liberty to cancel the bail bond of the appellant.

(Alok Kumar Pandey, J)

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