

(2022) 10 PAT CK 0012

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 452 Of 2022

Bhuneshwar Yadav @ Bhunesh Yadav

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 13-10-2022

Acts Referred:

Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v), 14A(2)
Indian Penal Code, 1860 — Section 34, 120B, 201, 302
Code Of Criminal Procedure, 1973 — Section 437(3)

Citation : (2022) 10 PAT CK 0012

Hon'ble Judges : Arun Kumar Jha, J

Bench : Single Bench

Advocate : Abhishek Kumar, Sadanand Paswan

Final Decision : Allowed

Judgement

Heard learned counsel for the appellant, learned Spl.PP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks.

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 26.10.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST) Act, East Champaran, Motihari in connection with Harsidhi P.S. Case No. 147 of 2021 registered for the alleged offences under Sections 302, 201, 120B and 34 of the Indian Penal Code and Section 3 (2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the appellant and other co-accused persons under a conspiracy murdered and concealed the dead body of the wife of the informant. The deceased used to stay with co-accused Shivji Yadav.

Learned counsel for the appellant submits that the appellant has been falsely

implicated in this case. No specific overt act has been attributed against this appellant. The allegation of enticing away the wife of the informant and to keep her in concealment is against co-accused Shivji Yadav. There is no eye-witness to the alleged occurrence and though it is a case of circumstantial evidence, the chain of the circumstance is not complete against the appellant. The appellant is an old person and has got no concern with the deceased or other co-accused persons. Nothing incriminating has been recovered from the possession of the appellant at his instance. The appellant is in custody since 21.09.2021.

Learned Spl.PP opposes the prayer for bail submitting that the appellant was named in the FIR being a conspirator.

Perused the records.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties and considering the fact that no specific overt act has been attributed to this appellant along with the lack of material to connect the appellant with the alleged occurrence and further considering his period of custody along with the submission of charge-sheet, he 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 1st Additional Sessions Judge-cum-Special Judge, East Champaran at Motihari in connection with Harsidhi P.S. Case No. 147 of 2021, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and 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.

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