

(2020) 07 PAT CK 0246

In the Patna High Court

Case No : Criminal Appeal (Sj) No. 571 Of 2020

Chotu Gupta @ Chotelal Gupta

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 09-07-2020

Acts Referred:

Limitation Act 1963 — Section 5

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(2)(V), 14A(2)

Indian Penal Code, 1860 — Section 34, 120(B), 201, 302, 363, 364, 365

Citation : (2020) 07 PAT CK 0246

Hon'ble Judges : Rajendra Kumar Mishra, J

Bench : Single Bench

Advocate : Yogesh Chandra Verma, Amresh Kumar Sinha, Usha Kumari

Final Decision : Allowed

Judgement

1. Heard Mr. Yogesh Chandra Verma, learned Senior counsel appearing for the appellant, and Ms. Usha Kumari-I, learned A.P.P. for the State, through Video Conferencing on the above stated I.A. No.1 of 2020, which has been filed on behalf of the appellant, under Section 5 of the Limitation Act, to condone the delay in filing the present appeal.

2. For the reasons, mentioned in the above stated I.A. No.1 of 2020, the delay in filing the present appeal is condoned and, accordingly, I.A. No.1 of 2020 stands disposed of.

3. Heard Mr. Yogesh Chandra Verma, learned Senior counsel appearing for the appellant, and Ms. Usha Kumari-I, learned A.P.P. for the State, through Video Conferencing.

4. This appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is directed against the impugned order dated 14.03.2019 passed in Special (H) Case No.122 of 2018, arising out

of Nawada P.S. Case No.456 of 2018, registered under Sections 363, 365/34 and, later on, added Sections 364, 302, 201 and 120(B) of the Indian Penal Code and Sections 3(2)(V) of the SC/ST (POA) Act, whereby and whereunder the 1st Additional Sessions Judge, Nawada, rejected the prayer of the appellant to grant him bail.

5. The prosecution case, in brief, is that in the evening of 06.07.2018, Kailash Paswan, the father of the informant Sanjay Kumar, was accompanied by Chotu Gupta (appellant) boarding on Bolero vehicle for holding Panchayat from his house but he did not return. On search, no trace of the father of the informant was found. The informant claimed that his father has been concealed after having been kidnapped by this appellant with the help of others. The informant also alleged that the house of Kiran Devi is situated adjacent to his house and some dispute with regard to the construction of the house had taken place in between them in which Kiran Devi had given threatening to the father of the informant of dire consequences.

6. Learned counsel for the appellant submits that, earlier, the appellant had filed Criminal Appeal (SJ) No.1664 of 2019, to grant him the privilege of bail in connection with the aforesaid case but the prayer of the appellant to grant him the privilege of bail was rejected by a Coordinate Bench of this Court vide order dated 03.07.2019 passed in Criminal Appeal (SJ) No.1664 of 2019 and, now, more than one year has already elapsed of passing of the aforesaid order. Further submission is that the only evidence, which have been collected by the Investigating Officer during investigation against the appellant, are that the name of the appellant surfaced in this case in the confessional statement of the co-accused Vivek Kumar and Saurabh Suman alias Dr. Saurabh Suman and that the deceased was last seen with the appellant. The appellant is in custody since 11.07.2018.

7. Having considered the facts and the circumstances of the case, the impugned order dated 14.03.2019 is set aside and this appeal is allowed. The appellant, above named, is directed to be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the 1st Additional Sessions Judge, Nawada, in connection with Special (H) Case No.122 of 2018, arising out of Nawada P.S. Case No.456 of 2018.