

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.820 of 2018

Arising Out of PS.Case No. -7 Year- 2018 Thana -MAHILA P.S. District- PATNA

=====

1. Somnath Majee @ Somnath Manjhi, Son of Mihir Kumar Majee, Resident of Village - Bagatbari, P.O. Jorebira Block – Raghunathpur - I, District - Purnea at Present Sipahi J.C. No. 2048, Railway Protection Force, Aasansol, West Bengal
.... Appellant

Versus

1. The State of Bihar

.... Respondent

=====

Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 24-07-2018

Heard learned counsel for the parties.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 06.02.2018 in A.B.No. 752 of 2018 passed by the learned 5th Additional Sessions Judge-cum-Special Judge (S.C./S.T. Act), Patna in connection with Spl. Case No. 27 of 2018 arising out of Mahila P.S. Case No. 07 of 2018 registered under Sections 376, 506 of the Indian Penal Code as well as Sections 3(1)(w), 3(I, II) of the SC/ST Act.

According to FIR, the appellant induced and persuaded the informant, who is a member of scheduled caste, to marry with her and the inducement resulted in physical relation mainly for the reason



that the appellant was transferring money in the bank account of the informant so that she may complete her study.

Submission of learned counsel for the appellant is that the matter is of consensual physical relation between two adults, hence, offence of rape alleged in the FIR is not attracted.

The parties are physically present in Chambers for reconciliation. The appellant flatly refused that he had any relation with the informant nor he is ready to marry with her. The informant is insisting for marriage.

Section 415 of the Indian Penal Code defines “cheating” which is as follows:-

*“whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall written any property, or intentionally induces the person so deceived **to do or omit to do anything** which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to cheat.”*

In the present case, the inducement of the appellant has caused the informant to do which she would not have done in absence



of deceit played upon her and the act caused harm to the body, mind and reputation of the informant which cannot be compensated in terms of money.

Hence, I am not inclined to enlarge the appellant on anticipatory bail. Accordingly, prayer for bail is refused and this appeal stands dismissed.

Let the appellant, who is a Constable in the Government of India, surrender within a period of two weeks from today and pray for regular bail, failing which the learned court below shall be at liberty to take appropriate step according to law.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	27.07.2018
Transmission Date	27.07.2018

