

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.2692 of 2018

Arising Out of PS.Case No. -1978 Year- 2014 Thana -MUZFFARPUR COMPLAINT CASE
District- MUZAFFARPUR

- =====
1. Dhaneshwar Sah son of Late Sohrai Shah @ Bihari Shah Resident of Village - Goriyara, P.S. - Karja, District - Muzaffarpur.

.... Appellant/s

Versus

1. The State of Bihar.
2. Khushboo Kumari, D/o. Harendra Paswan, R/o. Village- Goriyara, P.S. Karja, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeev Ranjan No.II, Advocate
For the Respondent/s : Mrs. Usha Kumari No.1, SPP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 30-08-2018

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 against the refusal of prayer for anticipatory bail vide order dated 22.06.2018 passed by learned Additional Sessions Judge-XI-cum-Special Judge (SC/ST Act), Muzaffarpur, in A.B.P. No. 1744 of 2018, arising out of Complaint Case No.1978 of 2014 (T.R. No.340 of 2018) registered under Sections 376/511/504 of the Indian Penal Code and Section 3(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Allegation against the appellant in the complaint petition is of commission of rape. The victim disclosed occurrence to her



mother who has supported the disclosure, in her statement before the Magistrate in enquiry under Section 202 Cr.P.C.

Submission is that the victim has not clearly stated in her solemn affirmation that rape was allegedly committed. Moreover, witness No.2 Usha Devi, who claims to be an eyewitness of the occurrence, appears to have falsely deposed, for the reason that it is case of the prosecution that no other has seen the occurrence. There is serious contradiction in the complaint petition and the statement of the complainant.

At the stage of consideration of prayer for anticipatory bail, the Court cannot look into the trustworthiness of the evidence coming on the record nor can weigh the evidentiary value, which is a matter of trial. The victim cannot be disbelieved at this stage.

Hence, this appeal against the refusal of prayer of anticipatory bail has got no merit. Accordingly, it stands dismissed. The appellant is directed to surrender within three weeks.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	NAFR
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