

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.222 of 2019

Arising Out of PS. Case No.-88 Year-2018 Thana- BARACHATTI District- Gaya

Nitish Kumar S/o- Navlesh Singh @ Nilesh Singh R/o Village-Chau, P.S-
Barachatti (Mohanpur), Dist.-Gaya

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Tabish Sharfuddin

For the Respondent/s : Mr.Smt Usha Kumari No-1

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

3 06-02-2019 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 bail by order dated **25.09.2018** passed by learned **Special Judge (SC/ST, Act), Gaya** in connection with **B.P No. 169 of 2018 Barachatti (Mohanpur) P.S. Case No. 88 of 2018** registered under Section 376 of the IPC and Section 3 (1) (w) (1) (2), 2 (v) of SC/ST (Prevention of Atrocities) Act was added.

Informant is the victim herself who has stated in her written complaint addressed to Officer-in-Charge, Mohanpur police station alleging that on 30.01.2018 at about 11:00 P.M., appellant entered into her room while she was sleeping with her two children and forcibly committed rape



upon her. When her children and in-laws woke up, alarm was raised and he fled away. Her statement was recorded on next day under Section 164 of Cr.P.C in which she has stated that petitioner tried to commit rape upon her. She was medically examined and Medical Board assessed her aged above 19 years and opined that there was no sign of any recent intercourse. There is no injury either on the body or private part of informant.

It has been submitted on behalf of the appellant that there is land dispute between the parties and proceedings under Section 107 Cr.P.C. is going on between the parties. It has been submitted that for the said reason he has been falsely implicated in this case. Appellant has got no criminal antecedent and is in custody since 23.08.2018.

Considering the aforesaid facts and circumstances of the case, let the appellant named above be released on bail upon furnishing bail bond of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of learned court below where the case is pending in connection with the aforesaid case, with following conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed



by the court and shall remain physically present as directed by the Court and his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the court below.

(3) If the Appellant tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the Appellant.

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

(S. Kumar, J)

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