

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.674 of 2019**

Arising Out of PS. Case No.-536 Year-2018 Thana- BIKRAMGANJ District- Rohtas

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Briju Mishra @ Brija Mishra @ Shileshwar Mishra @ Satish Kumar Mishra
@ Satosh Kumar Mishra Son of Nathuni Mishra, Resident of village-Indrath
Kala, Police Station-Bikramganj, District-Rohtas.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajani Kant Singh
For the Respondent/s : Mr. Sadanand Paswan

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL JUDGMENT

Date : 29-04-2019

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

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act against the refusal of prayer for bail vide order
dated 22.01.2019 passed by learned 1st Addl. Sessions Judge
Rohtas at Sasaram in Bikramganj P.S. Case No. 536 of 2018
registered under Sections 376 of the Indian Penal Code, Section
4 of the POCSO Act and Sections 3(1)(E) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellant is said to have committed rape against
the minor daughter of the informant thrice by calling her for
tuition at his house and extended threatening of dire



consequences in case of divulgence of the occurrence to someone.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. He has been falsely implicated in this case. There is no eye witness of the occurrence. Doctor has not found any external injury either on the private part or on any part of the person of the victim and has also not opined the commission of rape against the victim. Four material witnesses examined by the prosecution including the victim and informant in the court during trial have turned hostile and not supported the prosecution case. Though, the victim has stated about occurrence in her statement recorded under Section 164 Cr.P.C., but in her deposition before the court, she has stated that police had taken her to the court and she has given the statement before the court as per the instruction of the police. There is no other material witness in the case diary barring Bhola Baitha, who is hearsay witness of the case. Appellant has no criminal antecedent and has been languishing in custody since 02.12.2018.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the



above named appellant is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Addl. Sessions Judge Rohtas at Sasaram in Bikramganj P.S. Case No. 536 of 2018.

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

(Prakash Chandra Jaiswal, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
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