

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.262 of 2019

In
Criminal Miscellaneous No.68393 of 2018

Arising Out of PS. Case No.-110 Year-2018 Thana- BABUBARHI District- Madhubani

Yunus Ansari s/o Md. Minnat Ansari, r/o Village Tirhuta, P.S. Babubarhi,
District Madhubani.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Jitendra Kumar Giri, Adv

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

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

5 01-02-2019 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 **18.08.2018** passed by learned **1st Additional District & Sessions Judge cum Speical Judge, POCSO, Madhubani**, in connection with **G.R. NO. 57 of 2018(corresponding to Babubarhi, P.S. Case No. 110 of 2018)** registered under Section 376 of the IPC and Section 3(2)(va)/3(2)(v) of SC/ST (Prevention of Atrocities) Act.

Informant in his written complaint has alleged that his two daughters Chandani Kumari and Chanda Kumari were sleeping in the adjacent room. Her younger daughter informed



him that with her elder sister Chandani Kumari someone was found to be sleeping upon which he reached the room and found his daughter and appellant in a compromising position and thereafter when alarm was raised other people also assembled and the appellant was caught and handed over to the police.

It has been submitted on behalf of the Appellant that the offence of rape is not made out and there is no allegation against the appellant of forcibly entering the room and establishing physical relation with the daughter of the Informant rather the relation was consensual. Appellant has got no criminal antecedent and is in custody since 30.06.2018.

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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