

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1676 of 2019**

Arising Out of PS. Case No.-9 Year-2017 Thana- MAHILA PS District- Aurangabad

CHANDAN RAWANI @ CHANDAN KUMAR S/o Sachitnand Singh @
Sachita Nand Ram @ Sachchita Nand Singh R/o Village- Bihata, P.S.-
Haspura, District- Aurangabad (Bihar)

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bachan Jee Ojha, Adv
For the Respondent/s : Mr.Usha Kumari 1, APP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 21-08-2019

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 19.02.2019 in Mahila (Aurangabad) P.S.Case No.09 of 2017 passed by the learned A.D.J.-1st -cum-Special Judge (S.C./S.T. Act), Aurangabad, registered under Sections 341,342,376(D)/506 of the Indian Penal Code, Section 4 of the POCSO Act and also under Section 3(1),(r)(s)/3(I)(w)(11)/3(2)(V) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

According to FIR, the appellant dragged the victim, a minor girl, to a school, wherein gang rape was allegedly committed against her. The victim is specific in the FIR that the



appellant had injected some medicine to her. Thereafter, she became unconscious and the named accused person allegedly committed rape against her.

Learned counsel for the appellant submits that in the statement under Section 164 Cr.P.C., the victim denied to have identified any of the accused who committed rape against her.

However, in that statement, the victim supported the allegation of commission of rape against her.

Earlier this Court refused prayer for bail to the appellant on 12.02.2018 in Cr. Appeal (SJ) No.3549 of 2017 considering the nature of allegation against the appellant as well as statement of the victim recorded under Section 164 Cr.P.C. However, liberty was given to the appellant to renew the prayer for bail before the learned court below itself after examination of the victim as prosecution witness. The victim has already been examined during trial and the learned court below has refused prayer for bail by the impugned order. The victim is specific that all the accused person including the appellant had committed rape against her.

Submission is that appellant is in custody since 13.09.2017 and co-accused-Raj Kumar standing on similar footing has already been allowed bail by this Court in Cr. Appeal (SJ) No.3207 of 2017 on 29.03.2018 vide Annexure-3.



This Court has granted bail to Raj Kumar when there was no direct evidence against Raj Kumar either in the FIR or in the statement of the victim under Section 164 Cr.P.C.. Hence, the allegation against the appellant is not on similar footing to that of co-accused-Raj Kumar.

Considering the statement of the victim, I am not inclined to enlarge the appellant on bail. Hence, prayer is refused.

The learned Trial Court is directed to expedite the trial and conclude the same at the earliest.

Accordingly, this appeal stands dismissed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
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