

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2023 of 2019**

Arising Out of PS. Case No.-67 Year-2018 Thana- MAHILA P.S. District- Siwan

Jitendra Tiwary Son of Late Gurucharan Tiwary Resident of Village-
Madhawapur, Police Station- G.B. Nagar, District- Siwan

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Satya Nand Shukla
For the Respondent/s : Mrs. Usha Kumari 1

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

ORAL ORDER

7 01-08-2019 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 11.04.2019 passed by learned 1st Addl. Sessions Judge-cum-Special Judge, Siwan in Siwan Sadar Mahila P.S. Case No. 67 of 2018 registered under Sections 376(D), 307 of the Indian Penal Code and Sections 3(i)(r)(w) 3(2)(va)II of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellant is said to have come in contact of the informant during the course of doing *pairvi* in the case lodged against her husband, and subsequently, established sexual



intercourse with her promising to perform marriage with her. One and half month earlier, he had also forcibly ravished her. On 21.09.2018, in the evening when the informant and her mother had gone to excrete, appellant along with other accused persons arrived there on bike and caught hold her and took her to his house and forcibly ravished her. On protest made by her, he assaulted on her head by means of rod and also slapped her in the name of her caste.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. As a matter of fact, the informant has lodged this false and frivolous case against the appellant to mount pressure upon him to perform marriage with her, and ultimately, he has performed marriage with the informant and both are living together and informant has become pregnant with the appellant. Appellant has no criminal antecedent and has been languishing in custody.

Learned counsel appearing before the Court on behalf of the informant also conceded the factum of performance of marriage by the appellant with the informant and of becoming informant pregnant by the appellant.

Per contra, learned Spl. P.P. for the State opposing the bail prayer of the appellant submitted that the appellant has



forcibly committed sexual assault against the informant time and again and on protest, he assaulted on her head by means of rod. Informant in her statement recorded under Section 164 Cr.P.C. also corroborated the aforesaid occurrence and doctor has found injury on the head of the informant, hence, he does not deserve bail.

Having regard to the facts and circumstances of the case, I am not inclined to enlarge the appellant on bail. Accordingly, his prayer is rejected.

However, learned court below is directed to conclude the trial as expeditiously as possible preferably within four months from receipt/production of a copy of this order fixing the case on day to day basis and S.P. Siwan is directed to ensure production of the witnesses in the case on each and every date fixed without fail.

Let a copy of this order be communicated to S.P. Siwan by fax for needful.

Accordingly, this appeal is dismissed.

(Prakash Chandra Jaiswal, J)

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