

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2079 of 2019

Arising Out of PS. Case No.-58 Year-2019 Thana- BAIRIYA District- West Champaran

Brij Mohan Kumar Yadav Son of Amarjeet Yadav Resident of Village-
Karamwa Bazar, Police Station- Sugauli, District- East Champaran.

... .. Appellant.

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar No 7
For the Respondent/s : Mr. Sadanand Paswan

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

ORAL ORDER

4 20-08-2019 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 09.04.2019 passed by learned 1st Additional Sessions Judge cum Special Judge, West Champaran at Bettiah in connection with Bairiya P.S. Case No. 58 of 2019 registered under Section 376 of the Indian Penal Code, Section 4 of the Prevention of Children from Sexual Offences Act and Section 3(1) (v) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Appellant who happens to be compounder of Sanjivni Health Care is said to have committed rape against the minor daughter of the informant on the roof of the clinic.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in this case due to dirty village politics. There is contradiction between the prosecution case and the statement of the victim recorded under Section 164 Cr.P.C. regarding arrival of brother-in-law of the victim at the place of occurrence at the time of occurrence. F.I.R. has been lodged after delay of one day. The medical examination report of the victim does not corroborate the occurrence of rape against her. He has been languishing in custody since 19.02.2019,

Per contra, learned Special P.P. for the State vehemently opposing the prayer for bail submitted that there is direct allegation against the appellant of committing rape against the minor daughter of the informant on the roof of the clinic. The victim in her statement made under Section 164 Cr.P.C. has fully supported the occurrence. The doctor, after medical examination of the victim, has found her age to be 15-16 years, i.e. minor. Hence, the appellant does not deserve bail.

In the facts and circumstances of the case, I am



not inclined to enlarge the appellant on bail. The prayer for bail
is hereby rejected.

Accordingly, this appeal is dismissed.

(Prakash Chandra Jaiswal, J)

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