

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.2125 of 2019**

Arising Out of PS. Case No.-31 Year-2016 Thana- MAHILA P.S. District- Saran

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TARKESHWAR RAI @ TARKESHWAR RAY S/o Late Rameshwar Rai R/o  
village- Panchua, Panchua Parsagarh, P.S.- Ekma, District- Saran.

... .. Appellant.

Versus

The State of Bihar.

... .. Respondent/s

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**Appearance :**

|                      |   |                                                                                            |
|----------------------|---|--------------------------------------------------------------------------------------------|
| For the Appellant/s  | : | Mr. Gautam Kumar Kejriwal, Adv.<br>Mr. Alok Kumar Jha, Adv.<br>Mr. Pawan Kumar Singh, Adv. |
| For the Informant    | : | Mr. Sanjay Kumar Singh, Adv.                                                               |
| For the Respondent/s | : | Mrs. Usha Kumari-I, Special P.P.                                                           |

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

ORAL ORDER

5      07-08-2019                      Heard learned counsel for the appellant, learned  
counsel for the informant 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 16.02.2019 passed by learned 1<sup>st</sup> Additional Sessions  
Judge cum Special Judge SC/ST Act, Saran at Chapra in  
connection with Mahila P.S. Case No. 31 of 2016, G.R.  
No.4241 of 2016 registered under Section 376 of the Indian  
Penal Code and Section 3(1) (xii) of the Scheduled Castes



and Scheduled Tribes (Prevention of Atrocities) Act.

While the informant along with her sister had gone to take blackberry (Jamun) at Bodra Pokhar, appellant along with two other accused persons arrived there and made her sister to leave the place and caught hold the informant. However, on making alarm by the informant two accused persons made good their escape while appellant committed rape against her.

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 as the appellant had witnessed the informant with her paramour and disclosed of the aforesaid fact villager. The doctor has not found any sign of rape against the victim in her medical examination. There are several contradictions in the statement of the informant recorded in course of the trial. Appellant has been languishing in custody since 22.01.2019. Hence, the appellant may be enlarged on bail.

Per contra, learned counsel for the informant and learned Special Public Prosecutor for the State vehemently opposing the bail petition submitted that the appellant has committed rape against the informant.



Informant in her statement made under Section 164 Cr.P.C. has supported the occurrence and witness in para-15, who happens to be eye witness of the occurrence, has also supported the occurrence. As the medical examination of the victim was conducted two days later to the occurrence, hence the sign of rape might have been washed out by the passing of time. It is further submitted that out of six material witnesses five have been examined by the prosecution and the case is likely to be concluded in near future. 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.

However, the learned Trial Court is directed to conclude the trial as expeditiously as possible preferably within four months from the date of receipt/production of a copy of this order. Both the parties are expected to extend their co-operation in conclusion of the trial within the stipulated period. The Superintendent of Police, Saran at Chapra 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 sent to the  
Superintendent of Police, Saran at Chapra for needful.

Accordingly, this appeal is dismissed.

**(Prakash Chandra Jaiswal, J)**

Trivedi/-

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