

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2314 of 2019**

Arising Out of PS. Case No.-771 Year-2018 Thana- DANAPUR District- Patna

=====

BHOLA KUMAR @ BHOLA SINGH Son of Surendra Singh Resident of
Anand Bazar (Gora Bazar), P.S.- Danapur, District- Patna

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Nagma Shamim
For the Respondent/s : Mr. Sadanand Paswan

=====

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

ORAL ORDER

9 22-10-2019 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 05.02.2019 passed by learned Special Judge Excise, Patna in connection with Special Case No.223 of 2018, arising out of Danapur P.S. Case No. 771 of 2018, registered under Sections 363, 366 A & 376 A of the Indian Penal Code, Section 6 of POCSO Act and Section 3(2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Informant eloped with the appellant to Delhi and lived with him for one month. Later on, the appellant fled away leaving her at the Delhi Railway Station. She was apprehended by the police who in turn informed his father and her father arriving at the Delhi Railway Station took her back on 22.09.2017. Subsequently, she again eloped with the appellant to his house at Anand Bazar and lived with him for one month. Later on, he started quarreling with her and sent her to her parents. He did not perform marriage with her and she became pregnant with the appellant and appellant has refused to perform marriage with her.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. As a matter of fact, the victim has *suo motu* eloped with the appellant and later on she was taken from the Delhi Railway Station by her father on 22.09.2017 and thereafter the victim has lodged this case after more than one year without assigning any plausible explanation for the said delay. Appellant has been languishing in custody since 08.11.2018. Hence, he may be enlarged on bail.

Per contra, learned Spl. PP for the State opposing the prayer for bail submitted that the appellant has committed rape against the informant who happens to be minor. Resultantly,



the informant became pregnant. The informant in her statement recorded under Section 164 Cr.P.C. has supported the occurrence. The doctor examining the victim has found her age to be 14 - 16½ years and also found fetus of 34 weeks in womb of the victim. 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)

Trivedi/-

U		T	
---	--	---	--

