

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3447 of 2019

Arising Out of PS. Case No.-102 Year-2016 Thana- MAHILA P.S. District- Madhubani

RAJA KUMAR Son of Chulhai Sah Resident of Village- Bathnaha, P.S.-
Phulparas, District- Madhubani.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Gagan Deo Yadav
For the Respondent/s : Mr.Binay Krishna

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

ORAL ORDER

4 24-10-2019 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 04.07.2019 passed by learned 1st Addl. Sessions Judge
cum Special Judge (SC/ST Act), Madhubani in Mahila P.S. Case
No. 102 of 2016 registered under Section 376(D) of the Indian
Penal Code and Sections 3(i)(w), 3(ii)(va) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act and
Section 67 I.T. Act.

Appellant along with three named accused persons
and two unknown miscreants are said to have committed rape



against the informant by taking her in a room while she had stepped out of the house for defecation in the night of 11.11.2016 and dumped her in the bamboo clump behind her house.

It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. He has been falsely implicated in the case due to dirty village politics. Occurrence is said to be of 11.11.2016 and after committing the alleged occurrence informant was dumped behind her house on the following day of the occurrence, but F.I.R. was lodged after inordinate and abnormal delay of one month and three days on 14.12.2016 without assigning any plausible and convincing explanation for the aforesaid delay which creates serious doubt about the prosecution case. Statement of the informant under Section 164 Cr.P.C. was also recorded after one month and five days of the occurrence and moreover in her statement recorded under Section 164 Cr.P.C. albeit she has stated about committing rape against her by five persons but she has not named any of the perpetrator of the offence in the said statement. Though in her beyan, she has named the appellant and others in the occurrence which also creates serious doubt about the complicity of the appellants in the occurrence. There



is no eye witness of the occurrence. Appellant has no criminal antecedent and has been languishing in custody since 10.06.2019. Similarly situated co-accused, namely, Pankaj Singh has been enlarged on bail by this court vide order dated 06.05.2019 passed in Cr. Appeal (SJ) No. 772 of 2019.

Learned Spl. PP for the State opposed the prayer for bail.

In the facts and circumstances of the case, the above named appellant is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Addl. Sessions Judge cum Special Judge (SC/ST Act), Madhubani in connection with Mahila P.S. Case No. 102 of 2016.

Accordingly, the impugned order is set aside and appeal is allowed.

(Prakash Chandra Jaiswal, J)

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