

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3769 of 2019**

Arising Out of PS. Case No.-18 Year-2019 Thana- MAHILA PS District- Gaya

SUNNY KUMAR @ SUNNY Son of Shivpujan Prasad Resident of Village
and P.O.- Dobhi, P.S.- Dobhi, District- Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Md. Javed Jafar Khan
For the Respondent/s : Mr.Binay Krishna

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

ORAL ORDER

4 21-11-2019 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 of anticipatory bail vide order dated 16.07.2019 passed by learned 1st Additional Sessions Judge cum Special Judge (POCSO), Act, Gaya in connection with POCSO Case No.51 of 2019, arising out of Mahila P.S. Case No. 18/2019 registered under Sections 376 of the Indian Penal Code, Section 4 & 6 of POCSO Act and Section 3(1) (r) (s) (w) (1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Appellant used to tease the daughter of the informant during the course of proceeding to coaching. On the date of occurrence, in the night, appellant intruding into the room of her daughter committed rape against her. When he rushed in the room responding hulla made by her, he found the appellant in semi nude condition who managed to escape on his four wheeler parked on her door.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. As a matter of fact, both the victim and appellant are next door neighbour and are in love and both were seen together by the informant. Hence, in order to deter the appellant from meeting her daughter, she has lodged this false and frivolous case against the appellant. As per F.I.R. appellant has committed rape against her daughter intruding into her room but victim in her statement recorded under Section 164 Cr.P.C. has not supported the aforesaid occurrence of committing rape by the appellant which creates serious doubt about the prosecution case. Doctor has also not found any sign of rape against the victim. The place of occurrence is located at the distance of 300 metre from the P.S. but F.I.R. has been lodged after three days of the occurrence without assigning any plausible explanation for the said delay. Informant



has not whispered in her written report about reason for aforesaid delay in lodging the F.I.R., which creates serious doubt about the prosecution case. Appellant has no criminal antecedent.

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

In the facts and circumstances of the case, the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge cum Special Judge, SC/ST, Act, Gaya in connection with POCSO Case No.51 of 2019, arising out of Mahila P.S. Case No. 18/2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Prakash Chandra Jaiswal, J)

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