

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3726 of 2019

Arising Out of PS. Case No.-78 Year-2019 Thana- DHANAHA District- West Champaran

1. ROHIT GONDH Son of Late Rajeshwar Gondh Resident of Village- Ghewarahi, P.S.- Dhanaha District- West Champaran.
2. Kunjesh Kushawaha Son of Sri Ram Kushawaha @ Ram Shri Kushawaha Resident of Village- Ghewarahi, P.S.- Dhanaha District- West Champaran.
3. Nitesh Gondh Son of Hardeo Gondh Resident of Village- Ghewarahi, P.S.- Dhanaha District- West Champaran.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sameer Ranjan
For the Respondent/s	:	Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 04-11-2019 Heard learned counsel for the appellants and learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the SC/ST Act against the refusal of prayer for bail vide order dated 02.07.2019 passed by learned 1st Addl. District and Sessions Judge cum Special Judge, SC/ST POCSO Act, Bettiah, West Champaran in Dhanha P.S. Case No. 78 of 2019 registered under Sections 341, 323, 376 and 511/34 of the Indian Penal Code, Section 4 of the POCSO Act and Section 3(II)(V)(a) of the SC/ST Act.

Appellants are said to have committed rape



against the minor daughter of the informant while she had stepped out of her house for defecation and dumped her in the straw house.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. As a matter of fact, niece of the appellant nos. 1 and 3 has lodged Dhanha P.S. Case No. 81 of 2009 on the basis of the fardbeyan recorded on 11.05.2019 and in order to save skin from the said case informant has lodged this false and frivolous case against the appellants. Appellants are said to have committed rape against the minor daughter of the informant but the victim was examined by the doctor on the following day of the occurrence and doctor has not found any sign of rape against her or any injury on her private part barring swelling under right eye and her hymen was also found intact which completely rules out the prosecution case. As had rape been committed by the appellants against the minor girl and victim was examined on the very following day, injuries must have been found on her private part. Moreover after investigation of the case police has submitted chargesheet not under Section 376 IPC rather under Section 376/511 and other allied sections of the IPC. Appellants have no criminal antecedent and have been languishing in



custody since 21.05.2019.

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

In the facts and circumstances of the case, the above named appellants are directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Addl. District and Sessions Judge cum Special Judge, SC/ST POCSO Act, Bettiah, West Champaran in connection with Dhanha P.S. Case No. 78 of 2019

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

(Prakash Chandra Jaiswal, J)

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