

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5307 of 2019

Arising Out of PS. Case No.-166 Year-2019 Thana- BACHHWARA District- Begusarai

Sakaldeep Rai @ Ghuto Yadav Son of Rampreet Yadav, Resident of Village-
Rani Dobhia Tole, P.S.-Bachhwara, District-Begusarai.

... .. Appellant

Versus

The State of Bihar.

... .. Respondent

Appearance :

For the Appellant/s : Mr.Suneil Kumar Thakur, Advocate

For the Respondent/s : Mr.Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 19-12-2019 Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

Appellant, in the present appeal, is challenging the order dated 11.11.2019 passed by the learned Special Judge, SC/ST (POA) Act, Begusarai by which the prayer for regular bail of the appellant has been rejected and further prays for grant of regular bail in connection with Bachhwara P.S. Case No. 166 of 2019 registered under Section 376 of the Indian Penal Code and Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Earlier after noticing the submission of learned counsel for the appellant that the Medical Board has not found any evidence of sexual assault on the informant and no injury on any part of her body including front and back, this Court had called for the case diary.

The allegation against the appellant is that he has put a



Gamchha on the mouth of the informant, she was forcibly pulled down in the field then appellant raped her and fled away by his bicycle leaving other articles on the spot.

Learned counsel for the appellant submits that the alleged occurrence is said to have taken place on 24th August, 2019 at about 4:00 PM, but the information was received in the police station on the next day at 12:15 PM and thereafter the informant was sent for medical examination, the Medial Board examined her and then found no evidence of sexual assault and there was no injury on any part of her body which prima-facie shows that the story alleged by her that she was forcibly pulled down in the field has not been corroborated from the medical report. It is further submitted that in course of investigation no witness except one lady who is a co-villager belonging to the same caste of the informant went to the police station after four days of the alleged occurrence to say that she had seen the appellant with the informant who had done wrong act and had left his bicycle etc. there. It is his submission that she is a tutored witness. It is his submission that save and except the allegation of the informant there is no material at all to connect the appellant in the present case.

It is also submitted that the appellant is having clean antecedent and is a co-villager of the informant, in his submission



the appellant has been falsely implicated in this case due to the protest shown by the appellant against the informant, who was plucking 'Sag' from his field and as the appellant asked her not to do so and pay the cost of the damage done to his field, the same resulted in a hot exchange of words between the parties and later on nurturing the animosity the present case has been filed against the appellant. The informant is said to be aged about 60 years having two sons aged about 35 and 30 years and a grandson of about 10 years and over and above in her medical examination no case of rape has been established.

Learned Spl.P.P. for the State has though opposed the prayer for regular bail of the appellant but after going through the case diary, learned Spl.P.P. has informed this Court that when the police went to the place of occurrence, the Investigating Officer did not notice any alleged material such as bicycle, bucket and fertiliser about 5 kg. which were allegedly left by the appellant. It has also been found in course of investigation that only a lady came to the police station after four days to be a witness, has alleged that she had seen the appellant doing wrong act, she has stated that the bicycle was left at the place of occurrence but the I.O. did not find any bicycle, bucket and fertiliser and further that there is no other witness in this case to support the allegation.

Considering the facts and circumstances of the case, the



submission that F.I.R. was lodged next day in the afternoon, in course of investigation, immediately on the next day when the informant was sent for medical examination no sign of sexual assault or any injury either front or back side on the body of the informant was found and I.O. did not notice any sign of rape at the alleged place, he did not find the said bicycle, bucket and the fertiliser which were allegedly left by the appellant and there being no other witness to support the allegations, after four days a lady went to police station to record her statement and she is said to be a tutored witness, the appellant having no criminal antecedent and being a co-villager it is his case that on asking the informant not to pluck the 'Sag' from his field, she has lodged the present case taking advantage of her being a lady though no sign of medical assault has been found, the impugned order dated 11.11.2019 passed in Bachhwara P.S. Case No. 166 of 2019 by learned Special Judge SC/ST (POA) Act, Begusarai is set aside.

Let the appellant above named be released on bail in connection with Bachhwara P.S. Case No. 166 of 2019 on furnishing of bail bond of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge SC/ST (POA) Act, Begusarai, subject to the condition as laid down under Section 437 (3) Cr.P.C. as under :

(a) that such person shall attend in accordance with the



conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the appellant shall present himself on each and every date in course of trial and two consecutive failures to put appearance in the trial court would lead to cancellation of his bail.

Let the trial be expedited.

(Rajeev Ranjan Prasad, J)

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