

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.522 of 2020**

Arising Out of PS. Case No.-306 Year-2019 Thana- SAHPUR District- Patna

PUNAM DEVI Wife of Bhushan Ram Resident of - Ushri, P.S.- Shahpur,
Distt - Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ghanshyam Tiwary, Advocate
For the Respondent/s : Mr. Sadanand Paswan, SPP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER**

4 27-05-2020 This matter has been taken up through Video Conferencing.

Heard the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail vide order dated 20.12.2019 passed by the learned Additional Sessions Judge I-cum-Special Judge (POCSO Act), Patna, in connection with Special Case (POCSO) No.146/2019, arising out of Shahpur Police Station Case No.306 of 2019, registered under Sections 376(D)/34 of the Indian Penal Code and Section 5/7 of the POCSO Act as well as Sections 3(i)(r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

According to FIR, in the month of January, 2019 this



appellant took the victim, who is informant of this case, to go to the hospital. Thereafter, the victim was carried in a four-wheeler along with others also and she was allegedly gang raped by the male accused persons. The matter was reported to the police for the first time on 01.08.2019. For that reason no medical report could substantiate the allegation.

Submission of learned counsel for the petitioner is that appellant has got no criminal antecedent. She is neighbour of the informant and for trivial dispute between the two neighbours the false allegation has been levelled at the instance of local people involved in village politics. The appellant is in custody since 04.08.2019. There is no acceptable explanation for delayed information of the matter to the police.

Learned counsel for the informant opposed the prayer on the ground that due to lack of sensitization as the informant is a downtrodden people of the society the matter could not be reported to the police within time.

Considering the facts that the appellant, who has got no criminal antecedent, is a female as well as considering the doubts on the prosecution version arising out of delayed reporting to the police and the fact that there is no material to substantiate that the appellant is going to tamper with the



evidence or hamper with the trial, let the appellant, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with the aforesaid case, with following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.

(b) The appellant shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellant.

(c) The appellant shall not leave the country without permission of the trial Court.

If the appellant would not be able in furnishing sureties due to lock-down, he shall be provisionally released on his personal bond and the provisional bail shall be confirmed only after production of the bailors within fifteen days of restoration of normal function of the Court.

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

(Birendra Kumar, J)

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