

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1379 of 2020

Arising Out of PS. Case No.-170 Year-2018 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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BHUSHAN SAHNI Son of Nageshwar Sahni Resident of Village -
Chandharpur, Kothi, P.S.- Kalyanpur, District - Samastipur.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Urmila Devi Wife of Tewari Ram Resident of Village - Chandharpur, P.S.-
Kalyanpur, District - Samastipur

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Bijay Bhushan Prasad
For the Respondent/s : Mr. Binay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 24-09-2020 Heard Mr. Bijay Bhushan Prasad , learned counsel for

the appellant and Mr. Binay Krishna, learned Special Public

Prosecutor appearing for the State through video conferencing.

The present appeal is directed against the order dated
05.03.2020 passed in A.B.P. No. 570 of 2020 by learned
Additional Sessions Judge – 1st, Samastipur in C.R. No. 170 of
2018, T.R. No. 1030 of 2020 in which cognizance has been
taken under Section 448 , 354 of the I.P.C. and Section 3 (i) (r) ,
3 (i) (s) (w) of the Scheduled Castes and the Scheduled Tribes
(Prevention of Atrocities) Act, 1989, whereby the prayer for
anticipatory bail of the appellant has been rejected.

The allegation against the appellant as per the
complaint lodged by the complainant – Urmila Devi is that on
24.11.2018 the co -accused Navin Kumar Sahni entered into the
house of complainant and tried to commit rape upon her, but in



the meanwhile, the complainant woke up and co-accused person succeeded in fleeing away. It has further been alleged that thereafter the complainant went to the house of co-accused Navin Kumar Sahni where she was abused by her caste name by the appellant and other co-accused.

Learned counsel for the appellant submits that appellant has falsely been implicated in this case with oblique motive. Learned counsel further submits that the appellant is the brother of the co-accused Navin Kumar Sahni and as such, he has falsely been implicated merely on that basis. Learned counsel referring to Annexure - 2 to this petition further submits that in fact the father of the appellant had lodged a complaint before the Gram Kachhari stating therein that she goat of the complainant had entered the field of the father of the appellant and had destroyed the crops, due to which the present complaint has been filed in retaliation. Learned counsel further submits that even if the allegation is taken on its face value, it is not alleged that the informant was called by her caste name in full public view, as such no offence under Section 3 (i)(r) , 3 (i)(s) (w) of the SC/ ST Act is made out against the appellant.

Having regard to the submissions made by the parties and taking into consideration the materials available on record,



this appeal is allowed and the impugned order dated 05.03.2020 passed in A.B.P. No. 570 of 2020 by learned Additional Sessions Judge - 1st , Samastipur in C.R. No. 170 of 2018 , T.R. No. 1030 of 2020 is set aside.

Accordingly, in the event of arrest or surrender by the appellant, above named, before the court below within six weeks from today, he shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge - 1st , Samastipur / court concerned in connection with C.R. No. 170 of 2018 , T.R. No. 1030 of 2020 , subject to the condition as laid down under Section 438 (2) of the Code Of Criminal Procedure.

It is made clear that at the time of furnishing bail bond all the parties shall follow the guidelines regarding lockdown and social distancing.

(Anil Kumar Sinha, J)

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