

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1887 of 2020**

Arising Out of PS. Case No.-608 Year-2017 Thana- JAGDISHPUR District- Bhagalpur

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Nand Lal Yadav Son of Late Hira Yadav, resident of Village-Punakh
Mohanpur, P.S.-Goradih, District-Bhagalpur

... .. Appellant

Versus

The State Of Bihar

... .. Respondent

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Appearance :

For the Appellant : Mr.Rajive Ranjan Singh, Advocate

For the Respondent : Mr. Binay Krishna, SI.PP.

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGEMENT**

Date: 17-12-2020

Heard learned counsel for the appellant and
learned Special Public Prosecutor for the State via video
conferencing.

2. By way of the instant appeal under Section
14A(2) of the Scheduled Castes and the Schedules Tribes
(Prevention of Atrocities) Act, 1989 (for short ‘the Act’), the
appellant has challenged the order dated 03.03.2020 passed by
the learned IIIrd Additional District & Sessions Judge -cum-
Special Judge (SC/ST), Bhagalpur in A.B.P. No.577 of 2020
whereby the prayer for grant of pre-arrest bail of the appellant in
Jagdishpur (Goradih) P.S. Case No.608 of 2017 registered under
Sections 341, 323, 354-B, 379, 385, 427, 504 and 506 of the
Indian Penal Code & Sections 3(1)(r)(s) and 3(2)(va) of the Act,



has been rejected.

3. It is submitted by the learned counsel for the appellant that the appellant is the owner of the land over which the informant is in illegal possession and there is no truth behind the allegations made in the first information report. According to him, the falsity of the case would be evident from the fact that though the alleged occurrence is said to have taken on 01.11.2019, information in this regard was given to the police after an inordinate delay of over one month and twenty days on 22.12.2017 pursuant to which the first information report was instituted. It is further contended that the order impugned passed by the court below whereby the prayer for grant of pre-arrest bail of the appellant is rejected, is neither sustainable in law nor on fact.

4. On the other hand, learned Special Public Prosecutor appearing for the State submitted that though there is some delay in institution of the FIR, the allegations made in the first information report would definitely attract the ingredients of the offences punishable under the Act. According to him, since ingredients of the offences under the Act are attracted, the application for grant of pre-arrest bail would not be maintainable. Accordingly, the court below has rightly rejected



the application for grant of pre-arrest bail to the appellant.

5. Section 18 of the Act provides that nothing in Section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

6. There is substance in the submission of learned counsel for the appellant that there is an inordinate delay in institution of the first information report. However, the same cannot be made a ground for overlooking the provisions prescribed under Section 18 of the Act.

7. Since there is allegation in the first information report that the appellant repeatedly abused the informant by taking her caste name '*musahar*' and demanded *rangdari* from her and also disrobed her, the ingredients of the offences under the Act are clearly attracted.

8. In that view of the matter, no error can be found with the impugned order dated 03.03.2020 passed by the learned IIIrd Additional District & Sessions Judge -cum-Special Judge (SC/ST), Bhagalpur in A.B.P. No.577 of 2020 whereby the application for grant of pre-arrest bail has been rejected as not maintainable.

9. Accordingly, I see no merit in this appeal.



10. In case, the appellant surrenders and seeks bail, the same should be considered on merits without being prejudiced in any manner by this order or the order passed by the court below and especially keeping in mind the inordinate delay of over one month and twenty days in instituting the first information report.

11. With the aforesaid observation, the appeal is dismissed.

12. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present judgment:-

- I. The judgment, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my email by the Sr. Secretary.
- II. The corrected copy of the judgment shall be transmitted by me from my email id to the Sr. Secretary, which shall be treated to be an authentic copy of the judgment passed by this Court in the present proceeding.



- III. Hard copy of the judgment duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- IV. Let steps be taken by the Sr. Secretary/registry for up-loading of the present judgment without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.12.2020
Transmission Date	21.12.2020

