

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1034 of 2021

Arising Out of PS. Case No.-90 Year-2020 Thana- MURAR District- Buxar

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RADHEYSHAYM RAJBHAR @ PAHLWAN Son of Chandradhan Rajbhar
R/o Village- Jalilpur, Sonpa, P.S.- Rajpur, District- Buxar.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Raju Kumar Goswami
For the Respondent/s : Mrs. Usha Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 09-07-2021 Heard Mr. Raju Kumar Goswami, learned counsel for

the appellant and Mrs. Usha Kumari, learned Additional Public

Prosecutor for the State through video conferencing.

The present appeal is directed against the order dated
17.12.2020 passed in connection with Murar P.S. Case No. 90 of
2020 registered under Sections 302 / 376 (D) / 379 / 307 / 34
of the IPC read with Section 3 (2) (v) of the SC / ST (POA)
Act by learned 1st Addl. District & Sessions Judge – cum-
Special Judge, Buxar by which the prayer for regular bail of the
appellant has been rejected.

The allegation as per the First Information Report is
that while the informant was going to deposit money in Bank
she was accosted by the co-accused / Bhola Yadav, who along
with other accused persons forcibly took the informant to some
other place and committed rape. It has further been alleged that
thereafter the accused persons took the informant near a canal
in a village where another co-accused arrived and all the persons



by tying the son of the informant with the help of her Saree threw them in the canal due to which the son of the informant died.

Learned counsel for the appellant submits that appellant has falsely been implicated in this case with oblique motive and he has not committed any offence in the manner alleged. Learned counsel further submits that the victim lady in her statement recorded under Section 164 of the Cr.P.C. has not disclosed the name of the appellant and his name has transpired in this case on the basis of confessional statement of the co-accused / Markandey Rajbhar and the confessional statement of the appellant was also recorded. Learned counsel next submits that even if the confessional statement of the co-accused and the appellant are taken together on their face value it does not show that appellant has committed rape upon the victim - informant. Learned counsel next submits that one of the co-accused / Meena Ram has been granted bail by this court in Cr. Appeal (SJ) No. 667 of 2021.

On the other hand, learned counsel for the State referring to the case diary submits that the victim lady along with her son was taken to some other place in a *tempo* in which the appellant was also sitting.



Having regard to the submissions made by the parties and taking into consideration the materials available on record, the fact that co-accused has been granted bail by this court, the appellant is in custody since 14.10.2020 and charge sheet has already been submitted, as such, this appeal is allowed and the order dated 17.12.2020 passed in Murar P.S. Case No. 90 of 2020 by learned 1st Addl. District & Sessions Judge cum Special Judge, Buxar is set aside.

Accordingly, let the appellant, above named, be released on regular bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Addl. District & Sessions Judge – cum- Special Judge, Buxar in connection with Murar P.S. Case No. 90 of 2020.

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

(Anil Kumar Sinha, J)

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