

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3012 of 2021

Arising Out of PS. Case No.-64 Year-2020 Thana- KHAIRA District- Saran

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1. AKBAR MIYA @ AKBAR HUSSAIN Son of Saifuddin Miya Resident of Village - Hardi Chapra, Police Station - Khaira, District - Saran.
 2. Saifuddin Miya Son of Late Wahid Miya Resident of Village - Hardi Chapra, Police Station - Khaira, District - Saran.
 3. Aalamgir Miyan @ Alamgir Hussain Son of Munna Miya Resident of Village - Hardi Chapra, Police Station - Khaira, District - Saran.
 4. Arman Miyan Son of Sakil Miyan Resident of Village - Hardi Chapra, Police Station - Khaira, District - Saran.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Indu Devi W/o- Sri Babulal Sharma R/o Village- Hardi Chapra, P.S.- Khaira, Dist.- Saran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Md. Nurul Hoda, Adv.
For the Respondent/s	:	Mr.Binay Krishna, Spl.P.P.
For the Informant	:	Mr.Arjun Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 13-12-2021 Heard the parties.

This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 07.06.2021, passed by learned 1st Additional Sessions Judge -cum- Special Judge (SC/ST Act), Saran at Chapra in connection with Khaira P.S. Case No.64 of 2020, registered under sections 341, 323, 504, 506, 354, 511 and 34 of the IPC and sections 3(ii) (va) of the SC



and ST (Prevention of Atrocities) Act.

The prosecution case in brief, is that the daughter of the informant has went to a ceremony and after having food, went to a hand pump. It is alleged that the appellant no.1 and others tried to commit rape upon her but on alarm raised by her, the nearby people assembled there and caught hold of the appellant no.1. In the meanwhile, other appellants reached there and started assaulting the informant's husband and fled away after abusing them by taking caste name.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. The appellants are quite innocent and have been falsely implicated in the case with mala-fide intention. The present case is counter blast of Khaira P.S. Case No.63/2020, which was registered by the appellant no.1 against the son and other family members of the informant. Thereafter, the informant has filed the present case against the appellants. It is further submitted that the victim has refused to be examined by the medical board, which fact is also apparent from para-50 of the case diary. There is no material evidence on record to prove the allegation under section 376 IPC against the appellants as the informant is not ready to be examined medically. It is further submitted that there is a



compromise between the parties and on the basis of that compromise, the informant and others have been granted anticipatory bail in Khaira P.S. Case No.63 of 2020. The allegation levelled against the appellants is not specific rather general and omnibus in nature. The appellants has been languishing in custody since 13.04.2021.

Learned Spl. PP for the State as well as learned counsel for the informant opposed the prayer for bail.

In the facts and circumstance of the case, the above named appellants are directed to be released on bail on furnishing bail bonds of Rs.25,000/- (Rs. Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge -cum- Special Judge (SC/ST) Act, Saran at Chapra, in connection with Khaira P.S. Case No.64 of 2020.

The impugned order is set aside and the appeal is allowed.

(Anjani Kumar Sharan, J)

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