

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.3151 of 2021**

Arising Out of PS. Case No.-335 Year-2020 Thana- DUMRA District- Sitamarhi

RAJESH MISHRA Son of Late Bindeshwar Mishra Resident of Village -
Beli, P.S.- Dumra, Distt.- Sitamarhi.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Pushpendra Kumar Singh, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 21-09-2021 Heard learned counsel for the appellant and Mr.
Sadanand Paswan, learned Special P.P. for the State.

Appellant, in the present case, is seeking setting aside of the order dated 06.04.2021 passed by the learned 6th Additional Sessions Judge, Sitamarhi in connection with Dumra P.S. Case No. 335 of 2020/CIS No. 258/2020 registered for the offence under Sections 341, 323, 376/ 511/34 of the Indian Penal Code and Section 3(1)(r)(s) of SC/ST (Prevention of Atrocities) Act and Section 8 of the Protection of Children from Sexual Offences Act.

Learned counsel for the appellant submits that the entire allegations in the First Information Report are false, concocted and baseless which would be evident from the materials which have come in course of investigation. It is his submission that although as per the prosecution story the alleged occurrence took place on 15.09.2020 when at about 7:00 P.M. the victim girl was returning

after delivering meal to her grand-father at Dera, as per allegation the appellant had caught hold of her by her hand and was trying to take her away towards the bank of river with an intention to commit rape but the F.I.R. has been lodged after 26 days of the alleged occurrence and the cause of lodgment of the F.I.R. has come in the case diary.

Learned counsel submits that in fact although the parties are close door neighbours and they had a quarrel when the children of the informant were urinating from the roof of their house in the adjacent field where the appellant had sowed vegetables and on objection there was a quarrel between the two families which resulted in the lodgment of the present F.I.R. The appellant is in custody since 22.03.2021, has got two criminal antecedents but in both the cases he is on bail.

Mr. Sadanand Paswan, learned Special P.P. for the State has assisted this court after going through the case diary. Learned Spl.P.P. has informed that in the case diary the fact that the two families had a quarrel over the children of the informant side urinating from their roof in the field of the informant have come. Learned Spl. P.P. has further confirmed that in the case diary there is no case that the appellant was trying to take away the victim girl with an intention to commit rape.

Having regard to the facts and circumstances of the case

and in the nature of submissions, delay in lodgment of the F.I.R. and the facts which have revealed in course of investigation, this Court sets-aside the impugned order and directs release of the appellant named-above on bail on furnishing bail bond of Rs. 25,000/-(Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge, Sitamarhi in connection with Dumra P.S. Case No. 335 of 2020/CIS No. 258/2020, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.