

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3269 of 2021

Arising Out of PS. Case No.-46 Year-2019 Thana- MAHILA P.S. District- Samastipur

Love Kumar @ Chhotu Son Of Garbhu Sah @ Garabhu Sahu R/O Village-
Mangal Garh, P.S.- Hasanpur, District- Samastipur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dilip Kumar Roy, Adv.
For the Respondent/s : Mr. Vinay Krishna, Spl.PP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 04-10-2021 Heard learned Senior counsel for the appellant and
learned Spl.P.P. for the State.

The instant appeal has been preferred against the order dated 20.9.2019 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Samastipur whereby the prayer for bail of the appellant in a case registered under sections 376D of the Indian Penal Code, section 67 and 67A of the Information Technology Act and section 3(2)(v) of the SC and ST (Prevention of Atrocities) Act, was rejected.

As per the prosecution case, six named accused persons including the appellant herein are stated to have committed rape on the informant.

It is submitted by learned Senior Counsel for the appellant that the allegations as levelled in the F.I.R. are false



and incorrect. There is no reasonable explanation for the delay in lodging of the F.I.R. For an occurrence alleged to have taken place on 9.7.2019, the F.I.R. was registered on 22.7.2019. As per the medical examination report of the informant conducted by a Board of four doctors, it has come to the conclusion that it cannot be decided whether rape has been committed or not. No case under the SC and ST Act is made out against the appellant. Referring to the deposition of the informant in course of trial, it is submitted that she has not been able to sustain her allegations in the cross examination. The case of the appellant stands on a similar footing to that of coaccused Sonu Kumar Singh who has been enlarged on bail vide order dated 19.3.2021(Annexure-3) passed in Cr. Appeal. (SJ) no.387 of 2021. The appellant is in custody since 23.7.2019 and has no criminal antecedent.

The appeal is opposed by learned Spl.P.P. for the State who submits that not only the appellant is named in the F.I.R. but there is direct allegation against him of having committed rape on the informant along with others, the said allegations having been supported in the statement of the victim under section 164 Cr.P.C. as also in her deposition in course of trial. It is further submitted that the deposition of the victim informant was not before the learned Court while the order dated



19.3.2021 was passed in the case of coaccused Sonu Kumar Singh.

Having heard learned counsel for the parties and taking into consideration the materials available on record especially the contents of the deposition of the victim informant PW 1 in Sessions Trial no. 1123 of 2020, the Court is not inclined to enlarge the appellant on bail and the same is rejected.

Learned trial Court is directed to expedite the trial.

(Partha Sarthy, J)

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