

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3201 of 2021

Arising Out of PS. Case No.-128 Year-2021 Thana- BASANTPUR District- Siwan

VIKASH KUMAR Son of Dinesh Thakur Resident of Village- Kumkukmpur,
P.S.- Basantpur, Dist- Saran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Yogesh Chandra Verma, Sr. Adv Ms. Kumari Anupam, Adv
For the Respondent/s	:	Mr. Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 24-08-2021 In view of sudden resurgence of COVID – 19 infection there is limited functioning of the High Court and therefore the matter has been listed for consideration through virtual mode.

Heard learned senior counsel for the appellant and the learned Special P.P. for the State.

This Court would expect that the appellant's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

The appellant has preferred the present appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of his



prayer for bail, vide order dated 15.6.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Siwan, arising out of Basantpur P.S. Case No. 128 of 2021 instituted for the offence under Sections 376, 420, 504 and 34 of the Indian Penal Code, and Section 3(ii)(s) of the SC/ST (POA) Act, 2015 and also for setting aside the aforesaid order dated 15.6.2021.

As per FIR, the appellant has established physical relationship for two years with the informant on the pretext of solemnizing marriage and thereafter has resiled from his commitment.

It is submitted by learned senior counsel for the appellant that informant is a major. The narration of the allegation makes it clear that the FIR has been lodged to coerce the appellant to solemnize marriage with the informant. The appellant is in custody since 7.4.2021 having no criminal antecedent. It is unbelievable that without her consent, if at all physical relation was established for two years, as there is no allegation of any coercion. Parties have compromised the issue. Annexure 2 is a copy of the petition filed by the informant before the Court stating that she has compromised with the appellant.



Learned Special PP submits that from the order of the learned Special Court rejecting the prayer for bail, it is apparent that the victim through virtual mode has supported the allegations.

That the above noted submissions and conduct of the informant makes it clear that she has not denied submissions of compromised petition but she is making inconsistent allegations under Section 161 and Section 164 where she has supported the statements. Annexure 2 is a copy of petition filed by the informant before the Court stating that she has compromised the issue with the appellant. Again when the appellant's bail is considered she has supported the prosecution version.

Under such circumstances the appellant having no criminal antecedents and is in custody since 7.4.2021, this Court is inclined to allow appellant's prayer for bail.

Accordingly, let the appellant, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, Siwan in connection with Basantpur P.S. Case No. 128 of 2021.



In the result, the appeal is allowed and the
impugned order dated 15.6.2021 is set aside.

(Madhuresh Prasad, J)

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