

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM OFFICIAL CHAMBERS VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.3371 of 2021**

Arising Out of PS. Case No.-39 Year-2020 Thana- SC/ST District- Sitamarhi

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VIMLESH KUMAR SINGH S/o Late Kishori Singh R/o Ward no. 12, Bhitha Bazar Sri Khandi Bitha, P.S. Sursand, District - Sitamarhi.

... .. Appellant

Versus

1. The State of Bihar
2. Smt. Sunita Kumari, D/o Rameshwar Paswan, W/o Laxmeshwar Paswan R/O Amaghattha, Ward No. 09, P.S. and Dist. - Sitamarhi.

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr.Dinkar Kumar, Advocate
For the Informant	:	Mr. Vikash Kumar Jha, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan, Special P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 01-10-2021 Heard Mr. Dinkar Kumar, learned counsel for the appellant, Mr. Vikash Kumar Jha, learned counsel for the informant and Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

The sole appellant, in the present appeal, is seeking regular bail and setting aside the order 08.07.2021 passed by learned 1st Additional Sessions Judge – cum – Special Judge, SC/ST (Prevention of Atrocities) Act, Sitamarhi in connection with SC/ST P.S. Case No. 39/2020 registered for the offence under Sections 341, 323, 447, 379, 354, 504, 506/34 of the Indian Penal Code and under Section 3(1)(r)(s)(w)(i)/3(2) (va) of the Scheduled Castes and Scheduled Tribes (Prevention of



Atrocities) Act. Appellant who was in custody since 12.01.2021 has been granted provisional bail on 23.08.2021. The appellant has no criminal antecedent as stated in paragraph '3' of the present application.

Earlier, while granting provisional bail notice was issued to the informant – Opposite Party No. 2 and case diary was also called for.

In today's hearing, learned counsel for the appellant submits that as per the prosecution case the victim lady has alleged that while working in the Hyundai Showroom as Receptionist she was meeting this appellant and thereafter she came under allurement of love and solemnized marriage with the appellant in accordance with Hindu rites and customs on 01.07.2018. It is alleged that on 04.10.2020 at about 9:00 P.M. this appellant who has been described as her husband, her mother-in-law, her Gotni and her Bhaisur as also one Ram Singh came to the rented house of the informant (house of Baidyanath Mahto), they abused her in the name of her caste and alleged that she had become their daughter-in-law despite belonging to a lower caste. It is alleged that they assaulted her and threw her out of the house in indecent condition. They allegedly snatched everything from the informant whereafter the villagers



assembled and then she left for her parents house.

Learned counsel for the appellant submits that the informant has not disclosed in the F.I.R. that she is a married lady, her husband is still alive and she has got a 10 years old child, therefore, the allegation that she was allured in love and thereafter solemnized marriage with the appellant is only a false and concocted story as she wanted to grab more and more money from the appellant taking him in her pretended love.

Learned counsel further submits that the claim of the informant that she had solemnized marriage with this appellant is a false statement, no such marriage has ever taken place with the informant.

Learned counsel further points out that in course of investigation the true and correct facts with regard to the marital status of the informant, her child and that no such alleged occurrence took place has come in the case diary.

Learned counsel submits that the appellant was released on provisional bail after about seven months of custody but as soon as the appellant came out of jail one another case has been imposed upon him by the informant alleging falsely that once again that he came to her room and then forcibly put her down and committed rape on her. It is submitted that the



whole attempt is somehow to put the appellant behind the bar taking advantage of the provisions of the special statute on the consideration of caste.

Mr. Sadanand Paswan, learned Special P.P. for the State has assisted this Court with the case diary. Learned Special P.P. has informed this Court that the fact that the informant is a married lady having a child aged about 10 years has come in the case diary. It is further informed that the husband of the informant is still alive. Learned Spl.P.P. has further drawn attention of this Court towards the statements recorded in paragraph 22 and 28 of the case diary including the statement of the house owner namely Baidyanath Mahto who has stated that the room was hired by this appellant but the informant was living alone in the said room, some times the appellant was coming to her room and on query the informant was saying that the appellant is her brother-in-law/or Dewar. The house owner has made statement before the I.O. that no such occurrence as alleged has taken place.

Learned counsel for the informant has also opposed the prayer for bail of the appellant. In course of his submission on the query made by this Court, learned counsel does not deny the fact that the informant is a married lady and the



solemnization of marriage as being claimed by the appellant in absence of a decree of divorce or annulment of her first marriage may not be legal and valid.

Learned counsel for the informant has however submitted that after the appellant was released on provisional bail, again he has committed the alleged occurrence for which the informant has lodged another F.I.R. against him.

Considering the facts and circumstances of the case, wherein this court has noticed that on allurement in love the informant claims to have entered into the relationship with this appellant and further claims to have solemnized marriage but the facts now revealed in course of investigation disclosed that she is already married, her husband is alive and she has got a child, these important facts are not duly disclosed in the F.I.R., apart from that in the F.I.R. though she claims that at the time of alleged occurrence a large number of villagers got assembled but this Court has been informed that in course of investigation no independent witness has come forward to support this part of the allegation and the house owner who is another important independent witness has stated before the I.O. that no such occurrence took place and the victim was residing alone in the room which was hired on rent, in these circumstances,



considering the totality of the materials on the record, this Court is of the considered opinion that the subsequent F.I.R. lodged by the informant during this period when the appellant is on provisional bail may not be a good ground to refuse confirmation of bail in the present case. The said F.I.R. is still under investigation.

This Court, therefore, sets aside the impugned order and confirms the provisional bail granted to the appellant. Let the appellant remains on the same bail bond.

(Rajeev Ranjan Prasad, J)

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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'.

