

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 76 of 2021**

Arising Out of PS Case No.-66 Year-2018 Thana- SIKTY District- Araria

=====

Anil Gosawami @ Anil Kumar Goswami, aged 38 years, Son of Baliram Goswami, Resident of Village- Bopkantri, Ward No. -4, PS- Sikty, District- Araria.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

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

For the Respondent/s : Mr. Binay Krishna, Special PP

=====

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 09-06-2021

The matter has been heard *via* video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the appellant yesterday, which was allowed.

3. Heard Mr. Ramesh Kumar Singh, learned counsel for the appellant and Mr. Binay Krishna, learned Special Public Prosecutor (hereinafter referred to as the 'Special PP') for the State.

4. The present appeal is directed against the order dated 12.04.2019 passed by learned 1st Additional Sessions Judge cum Special Judge, Araria in ABP No. 1319 of 2020, by which prayer for anticipatory bail of the appellant was rejected.



5. The appellant apprehends arrest in connection with Sikty PS Case No. 66 of 2018 corresponding to Special (SC/ST) Case No. 72 of 2018 dated 27.04.2018, instituted under Sections 323 and 506 of the Indian Penal Code and 3(i)(r) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

6. The allegation against the appellant is that he had entered into the house of the informant on 22.04.2008 at about 8-9 PM with intention to commit rape and had caught her and pulled her down resulting in her becoming naked and on alarm raised by the informant, he had fled away.

7. Learned counsel for the appellant submitted that the entire allegation is false and concocted. It was submitted that during investigation it has come that a few days prior to the incident, the son of the informant had stolen the mobile phone of the appellant from his betel shop due to which there was tension between the two sides and co-accused Md. Tajir Ansari, who was also the Ex-Mukhiya has intervened and patched up the matter. Learned counsel submitted that no reason has been assigned in the FIR as to why the appellant would commit such act. It was further submitted that even otherwise it is unbelievable that a stranger would enter into the house at 8-9 PM, when it is natural that all doors would be locked and knowing fully well that all the inmates



would be present and without anybody being aware of it and thereafter only upon the cry being raised by the victim, the accused will run away. Learned counsel submitted that the appellant has no criminal antecedent. Even otherwise, it was submitted that there has been no injury or any act committed and at best, an attempt was made and she was disrobed.

8. Learned Special PP submitted that as per the allegation, the appellant did try to commit rape.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the appellant be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge cum Special Judge, Araria in Sikty PS Case No. 66 of 2018 subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 (i) that one of the bailors shall be a close relative of the appellant, (ii) that the bailors and the appellant shall execute bond and give undertaking with regard to good behaviour of the appellant and (ii) that the appellant shall co-operate with the police/prosecution and the Court. Any violation of the terms and conditions of the



bonds or the undertaking or failure to co-operate shall lead to cancellation of his bail bonds.

10. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the appellant, to the notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the appellant.

11. The appeal stands allowed in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	
U	
T	

