

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.433 of 2021

Arising Out of PS. Case No.-38 Year-2018 Thana- PIYAR District- Muzaffarpur

SONI DEVI, Gender-Female, aged about 39 years, W/o Jogendra Mahto @
Yogendra Mahto, R/V.- Sundarpur Ratwara Tola Vaisauna, P.S.- Pear, Distt.-
Muzaffarpur.

... .. Appellant

Versus

1. The State of Bihar.
2. Rajendra Baitha, S/O Chandeshwar Baitha, Resident Of Village Sundarpur
Ratwara Tola Vaisauna, Police Station Pear, District- Muzaffarpur.

... .. Respondents

Appearance :

For the Appellant	:	Mr.Md. Anis Akhtar
For the State	:	Mr. Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 12-04-2021 Heard learned counsel for the appellant and learned
Special P.P. for the State through Virtual mode.

Learned counsel for the appellant is directed to
remove the defects, as pointed out by the office, within a period
of four weeks.

The matter relates to grant of anticipatory bail to the
appellant in connection with Pear P.S. Case No. 38/2018,
registered for the offences under Sections 341, 323, 376/34 of
the I.P.C., 4/6/8 of the POCSO Act and 3(i)(r)(s)(w), 3(2)(v) of
the SC/ST (POA)Act.

The prosecution case, in short, is that on 04.03.2018
at about 7.00 P.M., the informant's daughter, Rupa Kumari, aged



about 14 years, had gone to the house of Soni Devi (petitioner) to bring milk. She was told to sit at the Verandah, in the meantime, one Vipul Kumar, came there and at the point of knife took her to the room of Soni Devi (petitioner) and committed rape. At the time of rape, Soni Devi came and Vipul Kumar said something in her ear and thereafter went away. Rupa Kumari narrated the entire incident to her mother after going to her Nanihal where her mother had gone on the same day to attend some social gathering. Since the informant lives in Mumbai and after getting the information came and tried to settle through Panchayati but all went in vain, as a result of which, some delay has occurred.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent. The appellant has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against her. The petitioner is a lady. After investigation, the police has submitted charge sheet finding the allegation against the petitioner to be false but the learned court below differed with the police report and has taken cognizance against the appellant. The alleged occurrence has not taken place in public view. Hence, no offence under SC/ST Act is attracted in the present



case.

On behalf of the State, it is submitted that the appellant is named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 21.09.2020, passed in A.B.P. No. 2800 of 2020 in connection with Pear P.S. Case No. 38/2018 by learned 7th Additional Sessions Judge-cum-Special Judge, (POCSO) Act, Muzaffarpur, is set aside. The criminal appeal is allowed.

Accordingly, the appellants above named, in the event of arrest or surrender before the learned court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 7th Additional Sessions Judge-cum-Special Judge, (POCSO) Act, Muzaffarpur, in connection with Pear P.S. Case No. 38/2018.

(Sudhir Singh, J)

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