

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.531 of 2021

Arising Out of PS. Case No.-36 Year-2020 Thana- MAHILA PS District- Buxar

Manmohan Prasad Gupta Son of Shivajee Prasad Gupta Resident of Village -
Jalhara, P.S.- Rajpur, District - Buxar.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr.Arun Kumar Gupta
For the State : Ms. Usha Kumar Spl PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 18-03-2021

Heard learned counsel for appellant and learned Spl. PP
for the State.

2. Learned counsel for the appellant is expected to
honour his undertaking given in the instant case for depositing the
requisite court fee and to remove the defects as pointed out by
office when called upon to do so.

3. The appellant has preferred the present appeal under
Section 14A(2) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989 against the refusal of prayer
for regular bail vide order dated 03.11.2020, passed by learned
Additional District and Sessions Judge-VI-cum-Special Judge,
(POCSO) Buxar, in Buxar Mahila PS Case No. 36 of 2020,
POCSO case No.15/2020, registered under Sections 376, 420 and
506 of the Indian Penal Code, Sections 3(1) (r)(s), and 3(2)(v) of
the SC/ST Act and Section 4 of the POCSO Act, 2012.

4. The allegation is that on the pretext of solemnizing
marriage, the appellant has been sexually exploiting the informant,
since the last one year, and that on 24.05.2020, he has committed



rape and, thereafter, refused the proposal of marriage with the victim girl aged about 13-14 years.

5. It is submitted by the appellant's counsel that, in fact, the appellant was living away from the place where the First Information Report has been lodged and he had come back at the time of Nationwide Lock down. The informant and family members have been pressurizing him to solemnize marriage with the victim. He has not been agreeing to the proposal because she is still a minor. In order to coerce the appellant to marry the victim, having regard to the fact that he is an earning member, he has been implicated in the instant case. The further submission is that the victim has been stated to be medically examined by the Doctor just two days after the alleged occurrence, wherein, no sign of rape has been found. The allegations viewed, in the circumstances, are clearly unsustainable. The appellant has no criminal antecedents and he is in custody since 27.05.2020. It is also submitted that the manner of alleged occurrence is highly improbable as it is stated that the victim was taken by the appellant to his house and kept all night locked up in his room whereas the FIR itself suggests that apart from the appellant there were other family members in his house.

6. The learned Spl. PP has opposed the prayer for bail by submitting that there is direct allegation of committing the rape upon the minor girl.

7. Considering the rival submissions, this appeal is allowed. The impugned order dated 03.11.2020, passed by learned Additional District and Sessions Judge-VI-cum-Special Judge, (POCSO) Buxar, in Buxar Mahila PS Case No.36 of 2020, POCSO case No.15/2020, is set aside. Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/-



(Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-VI-cum-Special Judge,(POCSO) Buxar, in Buxar Mahila PS Case No. 36 of 2020, POCSO case No.15/2020, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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