

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.555 of 2021**

Arising Out of PS. Case No.-528 Year-2018 Thana- BAHERA District- Darbhanga

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KANIHYA KUMAR @ KANHAIYA KUMAR @ KANHAIYA DAS Son of
Radhe Sah, Resident of Village - Bahera, P.S.- Bahera, District - Darbhanga.
... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Girish Chandra Jha
For the Respondent/s : Mr.A.G

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

3 23-03-2021 Heard learned counsel for the appellant and learned
Special P.P. for the State.

This is an appeal under Sections 14 (A) (2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act, 1989 against the refusal of prayer for bail vide order dated 06.10.2020 by the learned 1st Additional Sessions Judge cum Special Judge (POA Act), Darbhanga, in connection SC/ST Case No. 247/2018 arising out of Bahera P.S. Case No. 528/2018 registered under Sections 376, 341, 323, 504/34 of the Indian Penal Code and Sections 3 (i)(r)/ 3(i) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Prosecution case in brief is that as per FIR, it is alleged that the informant, who is a member of schedule caste and she was allured by the accused petitioner to establish



physical relationship on the pretext of marrying her. The informant alleged that for about four months, the petitioner had been establishing relationship and on 29.11.2018 when he came to the house of the informant he promised her to take to the court for marriage purpose but on the very next day i.e. on 30.11.2018 at 9.00 am, when the informant went to the house of the petitioner and complaint about the conduct of accused petitioner, she was abused by father and wife of elder brother of this petitioner in the name of her caste and the informant as well as her mother were abused and beaten which have been seen by the co-villagers.

Learned counsel for the appellant submits that the appellant is innocent and has been committed no offence in this case. He further submits that the allegation levelled against him is false, baseless and concocted. The appellant has no manner of concern with the occurrence as alleged in the FIR. He further submits that the informant is a major lady. There is neither medical examination nor statement of victim recorded under Section 164 Cr.P.C. The appellant is in custody since 06.10.2020. The appellant has no criminal antecedent. The charge has been framed against the appellant.

Learned Special P.P. for the State opposed the



prayer for bail and submits that in the case diary, the witnesses have supported the prosecution case but also admitted that there is no medical report and statement of victim recorded under Section 164 Cr.P.C.

Considering the aforesaid facts, let the appellant, above named is directed to be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of SC/ST Case No. 247/2018 arising out of Bahera P.S. Case No. 528/2018 passed by the learned 1st Additional Sessions Judge cum Special Judge (POA Act), Darbhanga.

Accordingly, the order dated 06.10.2020 is set aside and this appeal is allowed.

(Anjani Kumar Sharan, J)

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