

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.397 of 2022

Arising Out of PS. Case No.-316 Year-2021 Thana- SAHPUR District- Patna

=====

Dhananjay Kumar Son of Late Balwant Singh @ Balwant Prasad Resident of
Village- Manjhos, P.S.- Makhdumpur @ Makdumpur, District- Jehanabad.

... .. Appellant/s

Versus

1. The State of Bihar
2. Ram Baran Paswan Son of Late Rajbali Paswan Resident of Village-
Dariyapur, P.S.- Shahpur, District- Patna.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Sunil Srivastava, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.P.P.
For the Informant	:	Mr. Saroj Kumar, Advocate
		Mr. Shailendra Kumar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

7 07-12-2022 1. Heard learned counsel for the appellant, learned Special
P.P. for the State and learned counsel for the informant on point of
admission and on merit also.

2. The appellant has preferred the present appeal under
Section 14A(2) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act (for short 'the Act') against the order
dated 17.12.2021 passed by the learned Additional District and
Sessions Judge-III-cum-Special Judge (SC/ST), Patna in connection
with Sahpur P.S. Case No. 316 of 2021 registered under Sections 363
and 366(A) of the Indian Penal Code and under Section 3(2) (V) of
the SC/ST Act.

3. Present appeal is well within limitation as prescribed
under Section 14A(3) of the Act.



4. Notice has been issued to Respondent no.2, served upon and duly represented.

5. Appellant is named in F.I.R. and is in custody since 28.10.2021.

6. The allegation against the appellant is to kidnap the minor daughter of the informant, aged about 18 years, for the purpose of illicit intercourse.

7. Learned counsel for the appellant submitted that the father of the victim is under habit to lodge such false complain by tutoring his daughter/victim, as just before one month earlier of the present occurrence, with same nature of accusation, Sahpur P.S. Case No. 249 of 2021 was lodged by this informant against the appellant. It is submitted that victim and appellant were known to each other and as disputes arises during the training of nursing, the present false case was lodged. It is also submitted that nothing can be gathered from the face of F.I.R., which may suggest that act of petitioner can be said an atrocities, within the meaning of the Act. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in *State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153)*



AIC 276.

9. Learned Special P.P. for the State duly assisted by learned counsel appearing on behalf of informant, namely, Mr. Saroj Kumar, while opposing the prayer of bail submitted that victim, specifically, alleged appellant to commit rape/penetrating sexual assault, while recording her statement under Section 164 of the Cr.P.C. It is submitted that appellant is a married person, having three children and is not a case of love affairs.

10. In view of the facts and circumstances, as mentioned above and by taking note of the statement of victim, as recorded under Section 164 of the Cr.P.C. alleging appellant to commit rape upon her, this Court is not inclined to grant bail to the appellant, at present.

Accordingly, prayer of bail of the appellant is rejected herewith.

Learned Trial Court is directed to proceed with the matter, by taking it on board, if required, on daily basis, so as trial may conclude within specified time as prescribed under Section 35(2) of the POCSO Act, 2012.

S.S.P., Patna is directed to produced the charge-sheeted witnesses, as and when directed by the learned Trial Court/Special Court, for expeditious disposal of trial, within specified time, as provided under law, mentioned above.

11. Hence, appeal stands rejected.



12. Before stepping out from present proceedings of appeal, it appears appropriate to mention that the Investigating Officer and Supervising Authority of present case, despite of having specific allegation of rape, submitted the charge-sheet under Section 366(A) of the Indian Penal Code against this appellant, whereas a letter dated 28.11.2022 was sent to SC/ST Special Court, Patna to add Section u/s 376 of the Indian Penal Code in present proceedings. The concerned I.O. and A.S.P., who supervised this case is directed to remain more careful in future, while dealing with such a serious accusation.

13. The physical appearance of I.O. and A.S.P. before this Court is dispensed with.

(Chandra Shekhar Jha, J)

pooja/-

U		T	
---	--	---	--

