

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.407 of 2022

Arising Out of PS. Case No.-279 Year-2021 Thana- KONCH District- Gaya

Sanjay Yadav, S/o Sri Madho Yadav Resident of Village- Belipar, P.S.- Konch,
District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Vijeta Devi Wife of Lourence Kukur Resident of village- Mokatma, P.S.-
Station chatra Dist- Chatra (Jharkhand)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Krishna Prasad Singh, Sr. Advocate Mr. Bhaskar Shankar, Advocate
For the Respondent/s	:	Mr. Sadananad Paswan, Spl. PP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 29-09-2022 Learned counsel for the appellant is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard Mr. Krishna Prasad Singh, learned senior
counsel and Mr. Bhaskar Shankar, learned counsel appearing on
behalf of the appellant and learned Spl. PP for the State.

Earlier notice was issued to the newly added
respondent No. 2 under both process, however, neither the
service report nor acknowledgment have been received. Vide
order dated 08.09.2022, the learned Spl. PP for the State was
directed to ensure the service of notice upon respondent No. 2
through the Superintendent of Police, Gaya.



Today, it has been informed by the learned counsel for the State that the information with regard to pendency of the present case has also been duly given to the Superintendent of Police of Gaya as well as the SHO of the concerned police station, however, none appears on behalf of the respondent No. 2.

The present appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes, Prevention of Atrocities Act, 1989, (hereinafter referred to as 'SC/ST Act') has been preferred against the order dated 02.11.2021 passed by the Learned Exclusive Special Judge SC/ST, Gaya in connection with B.P. No. 414 of 2021 arising out of Konch P.S. Case No. 279 of 2021 registered for the offence punishable under Section 376 of the Indian Penal Code and Section 3(2)(Va) of the SC/ST Act (POA) Act.

The case of the prosecution is that the informant alleged that three months prior to the date of the filing of the written report, she was brought to Panchanpur market by co-accused 'Awadesh Yadav' and on the pretext of providing job, she was handed over to one 'Sanjay Kumar'. It is further alleged that 'Sanjay Yadav' brought the informant/respondent No. 2 in different place, where she was kept confined in his house and



committed rape upon her. It is further alleged that when she got some chance, she informed her son and, thereafter, she was rescued from the hands of the accused.

Learned senior counsel appearing on behalf of the appellant submits that from the FIR it would be evident that no the date and time has been mentioned as to when she was handed over to the appellant or when the commission of rape has been committed upon her. He further submits that admittedly the informant/respondent No. 2 remained with the appellant for three months and she had every chance to inform the police or any person with regard to the atrocities meted out by the appellant. He next submits that during the course of investigation the statement of the informant/respondent No. 2 was recorded under Section 164 of the Cr.P.C., wherein, she has not supported the allegation of commission of rape, rather the only allegation has been levelled as she was kept confined for the purposes of job. He lastly submits that the appellant, having fair antecedent, is in custody since 25.08.2021.

On the other hand, learned counsel for the State vehemently opposes the bail application and submits that there is specific allegation against the appellant that he has committed rape upon her, though the same has not been supported in her



statement recorded under Section 164 of the Cr.P.C., but even in the said statement, she has stated that she was kept confined by the appellant.

Regard being had to the submissions made on behalf of the parties and considering the statement of the victim recorded under Section 164 of the Cr.P.C., wherein, no allegation of rape has been attributed against him and, moreover, he is in custody since 25.08.2021, having fair antecedent, let the appellant, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the Learned Exclusive Special Judge SC/ST, Gaya in connection with B.P. No. 414 of 2021 arising out of Konch P.S. Case No. 279 of 2021, subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

Accordingly, the impugned order dated 02.11.2021 is hereby set aside and the present appeal stands allowed.

(Harish Kumar, J)

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