

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.510 of 2022

Arising Out of PS. Case No.-53 Year-2021 Thana- MAHILA P.S. District- Kaimur (Bhabua)

Uma Shankar Kumar Yadav, @ Uma Shankar Kumar S/O Late Ram Adhar Singh Yadav, R/O Village- Adhaura, P.S.- Adhaura, District- Kaimur At Bhabua.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kamlawati Kumari D/O Kishun Singh R/O Village- Sondha, P.S.- Adhaura, District- Kaimur At Bhabua.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Tribhuwan Narayan, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl. PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 21-07-2022

Heard learned counsel for the appellant, learned counsel for the State and learned counsel for the informant.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail by order dated 16.11.2021 passed by the Additional District & Session Judge-1st cum Special Judge, Kaimur at Bhabua in SC/ST 41 of 2021 arising out of Mahila (Bhabhua) P.S. Case



No. 53 of 2021 under sections 420 and 376 of Indian Penal Code and section 3(1)(w)/3(2)(V) of the SC/ST Act.

The prosecution case is that the appellant started live-in relationship with the victim, who is informant of this case, and giving her allurements of marriage the appellant sexually exploited her. The informant became pregnant and gave birth to a male child, who was about ten months at the time of recording of F.I.R.

The learned counsel for the appellant submits that no offence under section 376 or 420 is made out on the facts of this case as the victim is a major girl and it is clear from the F.I.R. that she started living with the appellant out of her sweet will. She continued in relationship and even gave birth to a son. In her statement recorded under 164 Cr.P.C., the informant has stated that she has solemnized marriage with the appellant and started living with him as husband and wife. She lodged this case, when the appellant refused to provide her maintenance. Learned counsel further submits that the appellant denies all the allegations and he is ready to undergo D.N.A test to disprove the fact that son of informant is his son. Learned counsel further submits that charge-sheet has been submitted in this case and the appellant is in custody since 05.09.2021.



Learned special PP opposes the prayer for bail submitting that the appellant cheated the informant on assurance of marriage and established physical relationship with her.

Having regard to the submission made here-in-above and considering the fact that the act of informant in the whole occurrence was consensuals and further having regard to the period of custody of the appellant, let the appellant, above named be released on bail on furnishing bail bonds of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each of the satisfaction of the Additional District & Session Judge-1st cum Special Judge, arising out of Mahila (Bhabhua) P.S Case No. 53 of 2021 subject to the following conditions:

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bonds of the appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the



appeal is allowed and the impugned order is set aside.

(Arun Kumar Jha, J)

Diwakar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

