

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.603 of 2022

Arising Out of PS. Case No.-188 Year-2020 Thana- UJIYARPUR District- Samastipur

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Rakesh Kumar Son Of Sonelal Singh, Resident Of Dih Gonpur, P.O.- Gonpur,
P.S.- Ujiarpur, District- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Punam Devi W/o Balindra Paswan, R/o Village- Dihgawpur, Ward No-9,
P.S- Ujiyarpur, District- Samastipur

... .. Respondents

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Appearance :

For the Appellant/s	:	Mr.Rajendra Kumar Sharma
For the State	:	Ms.Usha Kumari 1, Spl. P.P.
For the Informant	:	Mr. Pramod Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 23-11-2022

Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

It appears from the order dated 21.07.2022 that notice
was issued to respondent no.2, requisites etc. were filed and
service report was awaited.

Registered notice was not returned even after lapse of
about 3 months, whereas under the statute of the General
clauses 1897 act only 30 days time is prescribed about valid
service.

In this background, let the notice issued upon the respondent no.2 under registered cover be treated as valid service.

The present appeal has been preferred under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail vide order dated 23.02.2021 for the alleged offence under section 376 of the Indian Penal Code read with sections 3(1)(r)/3w(1)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Learned counsel for the appellant submits that on the apparent reading of F.I.R. it is a case of rape and the alleged victim in her statement under Section 164 Cr.P.C. has supported the allegation made in the F.I.R.

Learned counsel for the appellant submits that the present case is out and out false one and filed with a view to take the revenge. Counsel further submits that both appellant and informant belong to same village and it is due to local politics in contesting election, the present dispute has occurred. Learned counsel further submits that from the F.I.R., it transpires that the said F.I.R. has been filed on 30.06.2020 for the alleged occurrence dated 29.06.2020 by one Punam Devi W/o Balindra

Paswan. Counsel further submits that the said Balindra Paswan is the attendant of Ajay Kumar of same village with whom the present appellant has litigating terms and by virtue of Annexure-3, she filed a criminal case against 8 named accused persons. Counsel for appellant has categorically stated in paragraph nos. 9 and 10 of his petition that when Ajay Kumar, the *Mukhiya* of the panchayat got knowledge of filing of this case (Annexure-3 filed by the father of the present appellant against Ajay Kumar and others) then he with the help of his supporter has filed the present criminal case in which appellant is in custody since 30.06.2020 and his antecedent is clean. Counsel further submits that in the said case, cognizance has also taken on 29.08.2019 and thereafter, the present F.I.R. has been lodged.

Learned Spl. P.P. for the State opposes the prayer for bail.

In the present facts and circumstances of the case and the submissions made above, let the appellant above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-1st, Special Judge, SC/ST Court, Samastipur in connection with Ujiapur P.S. Case No. 188 of 2020, subject to the conditions as laid down under Section 437(3) of Cr.P.C.

because in view of this Court, the present case has been filed on the instigation of Ajay Kumar under whom the husband of the informant is working who is supporter of Ajay Kumar.

Accordingly, the impugned order dated 23.02.2021 for the alleged offence under section 376 of the Indian Penal Code read with sections 3(1)(r)/3w(1)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is set aside and the present Cr. Appeal (SJ) stands allowed.

(Dr. Anshuman, J.)

ravishankar/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	