

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.638 of 2022

Arising Out of PS. Case No.-1 Year-2021 Thana- PHULWARIA District- Begusarai

Md. Chhote @ Md. Chhotu, Son of Md. Israfil, Resident of Village-
Phulwaria-01, Ward No. 12, P.S.- Phulwaria, District- Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Naresh Chandra Verma, Advocate
For the Respondent/s : Mr.sUsha Kumari 1, Spl.PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 10-11-2022

Heard learned counsel for the appellant, learned
Spl.PP for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

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 21.12.2021 passed by learned Special Judge
SC/ST(POA) Act, Begusarai in connection with Fulwaria P.S.
Case No. 1 of 2021 registered for the alleged offences under
Sections 376, 448 and 504 of the Indian Penal Code and
Sections 3 (i)(r)(s) and 3 (2)(v)(a) of Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act.



As per the prosecution case, the appellant entered into the house of the informant in night, put her down and threatening her with pistol, committed rape with her. When the husband of the informant returned home, the appellant assaulted him and fled away from there.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. The real fact of the case is that the appellant is a gas vendor and informant used to purchase gas from him and when the appellant demanded his money, he was falsely implicated in this case. Medical report also shows that no rape has been committed as no signs of sexual assault has been found on the person of the informant and no spermatozoa was found. Learned counsel further submits that utmost it would be a case for offences under Section 376 read with Section 511 of IPC and no offence under Section 376 of IPC was made against the appellant. The appellant is in custody since 29.01.2021 and charge-sheet has been submitted. The appellant is having clean antecedent.

Learned Special PP opposes the submission made on behalf of the appellant submitting that he committed rape with the informant while she was alone. The statement of the



informant was recorded under Section 164 Cr.P.C. wherein she has given the same statement and there is no variation from her written statement.

Perused the records.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties and in view of the specific nature of allegation against the appellant which is quite grave and serious, I am not inclined to grant bail to the appellant.

Hence, the prayer for bail is rejected.

However, the learned trial court is directed to expedite the trial and concluded the same within a period of six months.

If the trial is not concluded within a period of six months, then the appellant will be at liberty to renew his prayer for bail.

Accordingly, the appeal is dismissed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10-11-2022
Transmission Date	10-11-2022

