

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.779 of 2022**

Arising Out of PS. Case No.-220 Year-2017 Thana- KUDRA District- Kaimur (Bhabua)

Raju Ram Son Of Radha Ram R/O Village- Tamadh, P.O.- Odar, P.S.-
Sonhan, District- Kaimur (BHABUA)

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ashutosh Tripathy, Advocate.
For the Respondent/s : Mr. Vinay Krishna, Spl.PP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 28-07-2022 Learned counsel for the Appellant is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Ashutosh Tripathy, learned counsel for the Appellant as well as learned Special Public Prosecutor for the State.

This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 03.02.2022 passed by the learned Additional District and Sessions Judge-I-cum-Special Judge, Kaimur at Bhabhua in connection with Kudra P. S. Case No. 220 of 2017 (I.A. No. 02/2022) SC/ST 08/2021 registered for the offences punishable



under Sections 363 read with 34 of the Indian Penal Code and later on Sections 366, 376 (2)(n), 376(D) 120(B) of the Indian Penal Code and Sections 3(2)(v)a of the SC/ST (Prevention of Atrocities) Act.

As per the prosecution case, it is alleged that the marriage of the daughter of the informant was solemnized in the year 2015 with the appellant and after the marriage, she came to her paternal home along with the appellant for celebration of *Rakshabandhan* festival. On 11.08.2017, the appellant came to *Maika* of the daughter of the informant and took her back and since then she was traceless. It is further alleged that on 06.10.2017 the victim was recovered and her statement was recorded in which she categorically stated that she had a fight with the appellant on the way and this appellant left her on a tractor with her hands and eyes tied up with cloth. Thereupon, the victim called the cousin of the appellant and when she reached Patna, she was received by co-accused Uday Rai, who took her to his house and committed rape upon her repeatedly and then sold her to one Gautam Shukla.

Learned counsel appearing on behalf of the Appellant submitted that from the statement of the victim, it is evident that, there is specific allegation against other co-accused



persons, namely, Uday Rai and Gautam Shukla, who have in collusion with each other committed rape upon the victim girl and so far this appellant is concerned, there is only allegation that on account of a fight, took place between both the husband and wife, he left her on a tractor by tying her hands and eyes. It is further submitted that with regard to the occurrence which was taken place on 11.08.2017 the present case has been instituted on 02.10.2017 without explaining the delay and moreover, the offence under Section 376 (2) and 376 (d) of the Indian Penal Code or any penal provision of the SC/St Act has not been made out against the appellant. It is further submitted that this appellant himself surrendered in the learned court below and he is in custody since 06.01.2022 and he is ready to give undertaking that he will cooperate in the trial till its conclusion.

On the other hand, learned Special Public Prosecutor for the State opposes the bail application and submits that this appellant has left the victim by tying her hands and eyes thereupon, all the incidence has taken place and hence, the appellant does not deserve the privilege of bail.

Having considered the submissions made on behalf of the parties and taking into account the delay in lodging of the



F.I.R., apart from that the specific allegation of confinement of the victim and rape has been levelled against other persons and moreover, the appellant having no criminal antecedent and is in custody since 06.01.2022, let the appellant, above named, 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 learned Additional District and Sessions Judge-I-cum-Special Judge Kaimur at Bhabhua in connection with Kudra P. S. Case No. 220 of 2017 (I.A. No. 02/2022) SC/ST 08/2021.

In view of the aforesaid fact, the impugned order dated 03.02.2022 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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