

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.950 of 2022

Arising Out of PS. Case No.-697 Year-2020 Thana- AGAMKUAN District- Patna

Ved Prakash, S/O Rampukar Singh, R/O Village- Gavtal Devi Asthan, Gandhi Nagar, P.S.- Danapur, District- Patna

... .. Appellant/s

Versus

The State of Bihar & Anr.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K Agrawal, Sr. Advocate Mr. Jay Ram Prasad, Advocate
For the State	:	Mr. Binay Krishna, Spl. PP
For the Informant	:	Mr. Rajnish Chandra, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 01-12-2022

Heard learned senior 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.

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 14.02.2022 passed by learned Special Judge (SC/ST) Act, Patna in connection with Special Case No. 430 of 2020, arising out of Agamkuan P.S. Case No. 697 of 2020 registered for the alleged offences under Sections 376/506 of the Indian Penal Code and Sections 3 (1)(w)(II)/3 (2)(v) of



Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the appellant came into contact with the informant through social media platform and gave her proposal for marriage. Allegation against the appellant is that giving allurements of marriage, he sexually exploited the informant and made a video of this act. Later on, he refused to marry the informant and threatened her that he would make her video viral.

Learned senior counsel appearing on behalf of the appellant submits that the appellant has been falsely implicated in this case as no occurrence as alleged has ever taken place. The informant has filed this case after deliberation and afterthought since the written report is dated 07.09.2020 but the FIR has been registered on 07.10.2020. Learned senior counsel further submits that from the facts of the FIR and the statement recorded under Section 164 Cr.P.C. of the informant, it is very much clear that it was a consensual relationship between the informant and the appellant. The informant is aged about 31 years whereas, the appellant is aged about 24 years. The informant is well educated and she claims to be an Electrical Engineer. Learned senior counsel further submits that the



Hon'ble Supreme Court has held in a number of cases that if the girl is major, well educated and understands the consequences of sexual relation on the assurance of marriage, then there will be no offence under Section 376 I.P.C. In this regard the learned senior counsel placed his reliance on the decision of the Supreme Court in the case of ***Pramod Suryabhan Pawar Vs State of Maharashtra & Anr., 2019(4) PLJR (SC) 71***. When the informant entered into physical relationship on six to seven occasions she was knowing the fact that marriage may or may not take place. Learned senior counsel further submits that there would be no application of the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act as no ingredient is present in this case and this fact is clear from the FIR and statement recorded under Section 164 Cr.P.C.. The petitioner was earlier granted provisional bail by a Coordinate Bench while hearing the anticipatory bail application though, when the final order was passed, the prayer for anticipatory bail was rejected with direction to the petitioner to surrender before the learned trial court and seek bail. The appellant is in custody since 03.09.2021 and charge-sheet has been submitted. The appellant has got no criminal history.



Special PP as well as learned counsel appearing on behalf of the informant said respondent no. 2 vehemently oppose the submission made on behalf of the appellant. Learned counsel for the informant submits that the appellant lured the informant by making inducement of marriage and established sexual relationship with her without any intention to marry her. If the intention of the appellant was dishonest from the beginning there would certainly be application of Section 376 I.P.C. in this case.

Having regard to the facts and circumstances and statements made on behalf of the parties and further considering the facts in totality and further considering the apparently voluntary and consensual act of the informant, an educated lady of sufficient maturity, and also considering the period of custody of the petitioner along with submission of charge sheet, the petitioner is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (SC/ST) Act, Patna in connection with Agamkuan P.S. Case No. 697 of 2020, subject to the conditions mentioned in Section 437(3) of the Cr.P.C. and 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 bond 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.

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.12.2022
Transmission Date	05.12.2022

