

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.920 of 2022**

Arising Out of PS. Case No.-64 Year-2021 Thana- MAHILA P.S. District- Kaimur (Bhabua)

RAM LAWLIN SINGH S/o- Sudama Singh, Resident of Village- Akorhi,
P.S.- Belaon, District- Kaimur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Khushboo Kumari D/o Shyam Narayan Paswan, Resident of Village- Akorhi, P.S.- Belaon, District- Kaimur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ramchandra Singh
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

3 26-07-2022 The learned counsel for the appellant is directed to remove all the defects pointed out by the office within one month.

Heard learned counsel for the appellant as well as the learned counsel for the informant.

This appeal has been preferred on behalf of the appellant under Section 14 (A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 for setting aside the order dated 01.02.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Kaimur at Bhabua in ABP No. 1194 of 2022, arising out of Bhabua (Mahila) P.S. Case No. 64 of 2021 registered for offence



punishable under sections 376, 420, 323, 341, 504/34 of the Indian Penal Code and sections 3 (x) (xi) (xii) of the SC/ST Act, whereby the prayer for anticipatory bail of the appellant has been rejected.

As per allegation, co-accused Rakesh Singh developed love and affection with the informant and he committed rape upon her. The appellant is elder brother of the father of accused Rakesh Singh. The allegation against him and other family members of the main accused Rakesh Singh is that when the informant went to complain, they abused the informant by calling her caste name and they also justified the act of main accused Rakesh Singh.

The learned counsel for the appellant has submitted that the main accused is Rakesh Singh and the appellant and all family members of Rakesh Singh have falsely been implicated in this case. He has also submitted that the victim, in her *fardbeyan*, has stated that the appellant and the family members of Rakesh Singh abused her by calling caste name and also assaulted her, but in the statement recorded under section 164 of the Code of Criminal Procedure, she has not stated that the appellant and the family members of Rakesh Singh abused her by calling her caste name. As such, there is a contradiction in



her *fardbeyan* and in her statement recorded under section 164 of the Code of Criminal Procedure. The allegation is only against Rakesh Singh. In the statement, the informant has levelled allegation against the appellant and the family members of Rakesh Singh that they pushed her and abused by calling her caste name, but calling the caste name has not been mentioned in the statement of the victim recorded under section 164 of the Code. It appears that the main accused is Rakesh Singh, who at the pretext of false marriage, committed rape upon the informant. The petitioner and the family members of Rakesh Singh have falsely been implicated, as they are family members of Rakesh Singh. As such, the provisions of SC/ST Act do not attract *prima facie*.

Considering the above-mentioned facts and circumstances, the appeal is allowed and the impugned order dated 01.02.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Kaimur at Bhabua is set aside.

Accordingly, the appellant, in the event of arrest or surrender before the court below within four weeks from today, is directed to be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-



Special Judge, Kaimur at Bhabua in connection with Bhabua
(Mahila) P.S. Case No. 64/2021.

Office shall ensure that all defects are removed by the
appellant within the stipulated time mentioned hereinabove,
failing which, the matter shall be brought to the notice of this
Court.

(Nawneet Kumar Pandey, J)

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