

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.974 of 2022**

Arising Out of PS. Case No.-54 Year-2021 Thana- MADHUBAN District- East Champaran

1. VIKASH RAI Son of Baiju Rai Resident of Village- Kauriya More Pachimwari Tola, P.S.- Madhuban, District- East Champaran.
2. MANTOSH RAI Son of Binod Rai Resident of Village- Kauriya More Pachimwari Tola, P.S.- Madhuban, District- East Champaran.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Sunita Devi Shiv Nandan Ram Village-Kajraha, P.O.-Kajraha, P.S.- Madhuban, District-East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Praveen Prabhakar, Advocate
For the Respondent/s : Mr.Binay Krishna, APP

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 25-08-2022

Heard learned counsel for the appellant and learned APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

This is an appeal under Section 14(A)(2) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail vide order dated 13.01.2022 passed by the learned 3rd Additional Session Judge -cum-Special Judge, SC/ST (POA) Act, East Champaran, Motihari in connection with Madhuban P.S. Case No. 54 of 2021 registered for the alleged offences under Sections 376, 120(B), 364, 436, 307 and 34 of the



Indian Penal Code and Sections 3(1) (A), (D), (ii) (r) and (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per prosecution case, the co-accused persons entered into the house of the complainant/informant, caught hold of her, put her down and co-accused Mahesh Rai committed rape with her. When the complainant tried to inform the police station in the next morning, the appellants and other co-accused persons forbade her from doing so and on her refusal, the appellants assaulted her along with other co-accused persons. They also took away the son of the complainant.

Learned senior counsel appearing on behalf of the appellant submits that the appellant has been falsely implicated in this case and he has committed no offence. The appellant is a student and has been falsely implicated in this case due to enmity and politics. Learned senior counsel further submits that there has been an inordinate delay of about 17 days in filing the complaint and about 40 days in lodging the FIR. This false and fabricated case has been filed with malafide intention in order to put pressure on the appellant and his family members as on written application of Rina Devi, Madhuban P.S. Case No. 11/2021 has been instituted against the informant and her son under Section 363, 366, 366(A) and 34 of the Indian Penal Code, as the minor daughter of the informant was kidnapped by the son of the informant Sunita Devi. Even on the facts of the case, hardly any



offence is made out against the appellant. Only allegation against the appellant is that of assaulting the complainant with lathi and the offence will be a bailable one. The allegation of abusing by taking caste name is general and omnibus. Moreover, the allegations are mostly general and no specific act has been attributed to the appellant. Learned counsel further submits that similarly placed co-accused persons namely, Kamod Rai, Rajesh Rai, Raushan Rai, Ranjit Rai and Ram Babur Rai have been allowed regular bail by learned courts below. Charge sheet has been submitted in this case and the appellant is in custody since 05.01.2022.

Learned APP for the State opposes the prayer for bail of the appellant.

Having regard to the facts and circumstances and submission made hereinabove and considering the non specific and non serious nature of allegation against the appellant and further considering the clean antecedent of the appellant and submission of charge sheet along with his period of custody, the appellant above named 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 3rd Additional District & Session Judge -cum-Special Judge (SC/ST Act), Motihari, East Champaran in connection with Madhuban P.S. Case No. 54 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also 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 stands allowed.

(Arun Kumar Jha, J)

Gautam/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.08.2022
Transmission Date	29.08.2022

