

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1177 of 2022

Arising Out of PS. Case No.-431 Year-2021 Thana- KOILWAR District- Bhojpur

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RAUSHAN PANDEY @ AKASH PANDEY @ AKASH KUMAR PANDEY
S/o Bhawani Pandey R/o Village- Kishunpura, Police Station- Koelwar,
District- Bhojpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Harsh Singh, Advocate
For the Respondent/s : Mr. Binay Krishna, Special P.P.
For the informant/respondent: Mr. Bijay Kumar Pandey, Advocate
Mr. Amresh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 4 15-09-2022 1. Heard learned counsel for the appellant and learned
Special P.P. for the State as well as learned counsel for
informant.
2. The appellant has preferred the present appeal
under Section 14A(2) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act (for short
'the SC/ST Act') against the order dated 18.11.2021
passed by the learned 1st Additional Sessions Judge-cum-
Special Court (SC/ST), Bhojpur, Ara in connection with
Koelwar P.S. Case No. 431 of 2021 registered under
Section 376 of Indian Penal Code, Sections 3(1)(r)(s)(w)
(ii), (2)(v)(va) of the SC/ST Act.



3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.
4. Notice has been issued to victim/informant, served upon and duly represented.
5. The appellant is named in FIR and is in custody since 07.09.2021.
6. The allegation against the appellant is to commit rape/sexual assault upon the informant.
7. Learned counsel for the appellant submitted that the appellant has been falsely implicated in the present case for local disputes. It is also submitted that medical report negate the allegation as regard to rape against this appellant, because no recent sexual assault was noticed upon victim/informant. It is also submitted that victim already examined before the trial court, where, the deposition is not convincing in terms of allegation. It is also submitted that allegation on its face is not suggesting that act of appellant can be said atrocities within the meaning of Act. It is also submitted that the appellant is a man of clean antecedent. While concluding the argument, it is submitted that investigation of this case has been completed, long back, for which, charge-sheet has already



been submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in *State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276.*
9. Learned Special P.P. for the State duly assisted by learned counsel of the informant, while opposing the prayer of bail submitted that victim/informant specifically alleged appellant to commit rape upon her after getting a forceful entry inside her room in mid night, which is duly supported in her statement recorded under Section 164 of the Cr.P.C. It is also submitted that victim/informant was examined before the learned trial court, where, she supports the allegation of rape specifically against this appellant. It is further submitted that rape is a legal finding not a medical, as such, non-finding of recent sexual assault could not lead to a conclusion, *ipso-facto*, that rape was not committed upon.
10. In view of the submissions, as made above, as there is specific allegation, against appellant to commit rape



upon victim/informant, which is duly supported through her statement recorded under Section 164 of the Cr.P.C. and also during the trial, this Court, is not inclined to grant bail to the appellant, at present.

11. Accordingly, the prayer of bail of the appellants is rejected herewith.

12. Hence, appeal stands dismissed.

13. Trial Court is directed to proceed with the matter, by taking it on board, on daily basis, so as trial may conclude within 09 (nine) months from the date of receipt of a copy of this order.

14. Superintendent of Police, Bhojpur is directed to produced the charge-sheeted witnesses, as and when directed by the Trial Court, for expeditious disposal of trial, within specified time, as directed above.

(Chandra Shekhar Jha, J)

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