

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1473 of 2022

Arising Out of PS. Case No.-10 Year-2021 Thana- MAHILA P.S. District- Rohtas

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Sagar Kumar, S/o Sri Santosh Choudhary Resident of Village- Babhani, P.S.-
Dawath, District- Rohtas.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Informant Aged About-14 (FEMALE) D/O Sri Dinesh Paswan Duly represented through her father and natural guardian having no adverse interest namely Sri Dinesh Paswan, Resident of Village- Babhani, P.S.- Dawath, District- Rohtas.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. D.K. Sinha, Sr. Advocate
		Mr. Abhinay Raj, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, Spl.PP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 29-09-2022

Heard learned counsel for the appellant and learned
Spl.PP for the State.

As per officer report, notice has been validly served
upon the respondent no.2 but none appeared on her behalf and
hence the matter has been put up for hearing.

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 Castes and Scheduled Tribes (Prevention of



Atrocities) Act, 1989 against the refusal of prayer for bail by order dated 09.03.2021 passed by the learned Additional District and Sessions Judge-VIth-cum-Special Judge, Sasaram Rohtas in connection with Dehri Mahila P.S. Case no. 10 of 2021 registered for the alleged offences under Sections 341, 323, 376 (DA)/34 of the Indian Penal Code and Sections (1) (W) (i) (ii) (3) (2) (VG) of the Scheduled Castes and Scheduled Tribes Act.

As per the prosecution case, while the minor informant girl has gone to attend call of nature along with her sister-in-law, the co-accused along with this appellant put her down and the co co-accused committed rape with her. When the sister-in-law of the informant tried to rescue her, this appellant ran after her and sister-in-law of the informant fled from there. When the villagers came, the appellant and co-accused fled away from the spot abusing the informant.

The learned senior counsel appearing on behalf of the appellant submits that the prosecution case is false and fabricated and the fact is apparent on record as the written report was scribed by one Hari Paswan but there is no such persons and he appears to be a fictitious person. This written report was signed by the victim who has not made it clear that she understood its contents. Furthermore, the victim girl never



produced her clothes for examination. The statement of victim under Section 164 Cr.P.C. is at variance with the written report as much as she has stated that while she was proceeding to ease her along with her sister in law, she was caught on her way by the co-accused and the sister-in-law informed the father and then other persons came. Further the statement under Section 161 Cr.P.C shows she was asked by co-accused to accompany her and she went with him on her own. No allegation has been made against the appellant except that he was present there and subsequently caught her and the co-accused committed the offence. It has also come on record that the sister-in-law of the victim/informant saw her engaged in the act and she went to the house and informed her father who came there along with brothers of the informant and showed their anger and also assaulted the informant, as to why she did not raise any alarm. This statement shows that the victim/informant has voluntarily established sexual relationship with the co-accused having all the knowledge. It is also apparent from the record that no specific overt act has been attributed to this appellant except that he held the hand of the victim and he ran after the sister-in-law of the victim. During medical examination, no external injury on any of the body parts of the victim were found. Thus, learned



senior counsel submits that it is a case of false implications. The appellant is in custody since 08.03.2022.

Learned Spl.PP opposes the prayer for bail submitting that the informant has specifically named this appellant who caught hold of her hand and also helped the co-accused in committing rape with the informant.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and further considering the fact that the allegation of rape is against the co-accused and allegation against the appellant is not of serious nature and even his allegations appears to be doubtful in view of different statements of the victim girl and further considering his period of custody, and the appellant 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 Additional District and Sessions Judge-VI-cum-Special Judge, Sasaram Rohtas in connection with Dehri Mahila P.S. Case no. 10 of 2021, 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)

Rajnish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.10.2022
Transmission Date	01.10.2022

