

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1631 of 2022

Arising Out of PS. Case No.-33 Year-2021 Thana- MAHILA PS District- Gaya

RAHUL KUMAR @ RAHUL YADAV @ RAHUL KUMAR YADAV S/o
Jitendra Yadav @ Jitendra Kumar Resident of Jhurang, P.S.- Fatehpur,
District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Lalita Kumari daughter of Sukhdeo Chaudhary resident of village- Naudiha,
P.S.- Fatehpur, District- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sumit Kumar Singh, Advocate.
For the Respondent/s : Mr. Sadanand Paswan, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 13-10-2022 Learned counsel for the Appellant is permitted to

remove defect(s), as pointed out by the office, if any, within a

period of four weeks from today.

Heard Mr. Sumit Kumar Singh, learned counsel for

the Appellant as well as learned Special Public Prosecutor for

the State.

This is an appeal under Section 14 A (2) of the

Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST

Act”) against the refusal of prayer for bail vide order dated

08.04.2022 passed by the learned Special Judge, POSCO-cum-

A.D.J.-VI, Gaya in connection with Mahila P. S. Case No. 33 of



2021 (vide POSCO Case No. 14 of 2022) registered for the offences punishable under Sections 376, 376(3) of the Indian Penal Code and Sections 3(i)(r)(s)(w) I of the SC/ST (Prevention of Atrocities) Act and Section 6 of the Protection of Children from Sexual Offences Act.

The prosecution case is based on a written report filed by the respondent no. 2 alleging therein that on 23.08.2021 at mid-night, the appellant entered into her house and committed rape upon her by closing her mouth. It is also alleged that when the victim raised *hulla*, thereupon, all the family members gathered there but the appellant succeeded in fleeing away.

Learned counsel appearing on behalf of the appellant submitted that during the course of investigation, it has transpired that both the appellant and the victim having love affair and the appellant frequently used to visit her house and this fact has also been admitted by the victim in her further statement recorded on 28.08.2021, even after the statement of the victim recorded under Section 164 Cr.P.C. on 26.08.2021. It is further submitted that the statement of the sister-in-law (Bhabhi) of the victim was also recorded wherein she also narrated the similar fact that on the fateful day when both the appellant and the victim were found in a compromising position,



the family members started raising *hulla* and on being pressurized, this F.I.R. has been instituted by the victim. It is next submitted that the appellant is just a twenty years old boy and he is in custody since 30.01.2022. It is last submitted that in compliance of the order of this court, notice was issued to the newly added respondent no. 2 but none appears. The learned counsel for the appellant also came to know on being instructed that the marriage of the victim has also been solemnized and as such, she has lost interest and she does not want to pursue the present matter any further.

On the other hand, learned Special Public Prosecutor for the State vehemently opposes the bail application and submits that the specific allegation has been levelled against the appellant that he has committed rape upon her and this fact has also been corroborated by the statement of the victim recorded under Section 164 Cr.P.C.. It is also submitted that the victim was examined by a doctor and her age has been assessed in between 15-16 years and though, no sign of recent sexual assault has been found but the possibility of the rape has not been denied.

Regard being had to the submissions made on behalf of the parties and taking into account the statement of the



victim recorded under Section 164 Cr.P.C. as also the age of the victim, this court is not persuaded to enlarge the appellant on bail.

Accordingly, the present appeal stands rejected.

However, it is expected that the learned trial court will take all necessary measures to expedite and conclude the trial as early as possible.

(Harish Kumar, J)

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