

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1690 of 2022

Arising Out of PS. Case No.-141 Year-2021 Thana- DELHA District- Gaya

Kailash Kumar, Son of Late Krishnadev Singh, R/O Village- Abdulpur, P.O.
And P.S.- Rafiganj, District- Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Suman Kumari, D/O Rajeshwar Rajak, Village-Dashrath Bigha, P.S-
Rafiganj, District-Aurangabad

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ramakant Sharma, Sr. Advocate Mr. Suraj Narain Yadav, Advocate Ms. Sweta Kumari, Advocate Mr. Sasoom Alam, Advocate Mr. Chandra Mohan, Advocate
For the State	:	Mrs. Usha Kumari 1, Spl. PP
For the Respondent no.2	:	Mr. M. Dayal, Advocate Mr. Virendra Pd., Advocate Mr. Lalitesh Mani, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 22-09-2022

Heard learned counsel for the appellant and learned
Spl. PP for the State as well as learned counsel for the
respondent no.2.

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 25.04.2022 passed by the learned Exclusive Special Judge, SC/ST, Gaya in connection with Delha P.S. Case No. 141 of 2021, registered for the alleged offences under Sections 376, 379, 506 and 34 of the Indian Penal Code and Sections 3 (2) (va) of the Scheduled Castes and Scheduled Tribes Act.

As per the prosecution case, the appellant gave inducement to the informant while she was minor that he would get her passed in examination of Matric and Inter and also get a job for her. By giving different allurements, he started sexually exploiting her. Thereafter, the appellant took her away to Gaya and started living together but did not get her any job. The appellant continued to sexually exploit her. Thereafter, the wife of the appellant and his son and others threatened the informant and snatched her mobile phone. The informant showed her apprehension that she could be killed. Her father was also not ready to keep her and then she filed a case against the appellant.

The learned senior counsel for the appellant submits that it is a case of consensual relationship between two adults. The informant stated her age to be 19 years and the learned Judicial Magistrate assessed her age to be 21 years while recording her statement under Section 164 of Cr.P.C. But from her statement, it is very much clear that there was hardly any



allurement or inducement by the appellant. The informant established the relationship for getting job and continued in the relationship and even started living with the appellant and that too for quite long time. She also became pregnant. It is also apparent that she was knowing about the marital status of the appellant that he was already married while continuing relationship with him. Thereafter, when the job was not procured for her by the appellant, she filed the instant case, which is quite obvious from the FIR. The informant was in relationship with the appellant for last five years, but earlier she did not make any complaint. Even for an occurrence dated 02.07.2021, the FIR has been registered after a delay of 11 days without any explanation. For this reason, no offence under Section 376 would be made against the appellant. Similarly, considering the relationship between the informant and the appellant, there would be no application of any of the provisions of the SC/ST (POA) Act. The appellant is in custody since 27.01.2021. Appellant is having clean antecedent.

Learned Spl.PP as well as learned counsel for the respondent no.2 vehemently opposes the submission made on behalf of the appellant. Learned counsel for the respondent no.2 submits that the appellant induced a minor girl and established



physical relation with her. The medical report as well as her statement recorded under Section 164 of Cr.P.C shows that she was a minor when the appellant entered into physical relationship with her.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and further considering the consensual nature of relationship between the appellant and the informant who by her own will entered into the relationship though she was having sufficient maturity to understand the consequences of her act and also considering period of custody of the appellant, 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 Exclusive Special Judge, SC/ST, Gaya in connection with Delha P.S. Case No. 141 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, preferably one of the parents.
- (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)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.09.2022
Transmission Date	23.09.2022

