

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.1666 of 2022**

Arising Out of PS. Case No.-64 Year-2021 Thana- MAHILA P.S. District- Saharsa

Sumit Kumar Yadav Son Of Dinesh Yadav @ Darveshar Yadav R/O Village-  
Bhagwanpur, P.S.- Sour Bazar, District- Saharsa

... .. Appellant/s

Versus

1. The State of Bihar
2. Sona Kumari D/o- Late Bideo Sada Resident of Village-Belha Chanda  
East, P.S.-Sour Bazar, District-Saharsa

... .. Respondent/s

**Appearance :**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For the Appellant/s  | : | Mr. Chandra Mohan Jha, Advocate |
| For the Respondent/s | : | Mr .Ashish Kumar Jha, Advocate  |
| For the State        |   | Mr. Sadanand Paswan, SPP        |

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
ORAL ORDER

- 3      13-10-2022                      Heard Mr. Chandra Mohan Jha, learned counsel for  
the appellant and Mr. Ashish Kumar Jha, learned counsel for  
respondent no. 2 as well as learned SPP for the State.

The present appeal under Section 14(A) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities ) Act, ( hereinafter referred to as the SC/ST Act) preferred against the order dated 22.04.2022 passed by the learned Additional Sessions Judge-III cum Special Judge SC/ST Saharsa in connection with Special Case No. 30 of 2022 arising out of Mahila P.S.Case No. 64 of 2021 instituted for the offence under Sections 341, 376, 504, 506 of the Indian Penal Code and section 3(i) ( r) (s) (w) (i) (ii) of SC/ST Act



whereby prayer for bail of the appellant has been rejected.

The prosecution case is based on a written report filed by the informant/ respondent no. 2 alleging therein that on 17.09.2021 at about 12 p.m when she reached at Jio office Baijnathpur, in the meantime, the appellant came on the motorcycle and forcibly taken away to the hotel and committed rape upon her. It is further alleged that the appellant also abused her by taking her caste name and threatened to kill him if she lodges the FIR.

Learned counsel appearing on behalf of the appellant submits that from the FIR, it would be evident that she was taken away from busy market to hotel and thereafter, she was subjected to rape , this story appears to be fully improbable and absurd as she never made any hue and cry, while she was taking on motorcycle. He further submits that during the course of investigation, the C.C.TV footage of the hotel was obtained and it has been found that no such occurrence has taken place on 17.09.2021 however, one day prior to the alleged occurrence, the victim was present in the hotel and thereafter, this appellant came on a motorcycle and both of them remained in the hotel over the night without any complaint but after four days this case has been instituted. He also submits that it is evident from



the FIR that the alleged occurrence was taken place on 17.09.2021 and this FIR has been registered on 21.09.2021 after delay of four days. He further submits that in fact, the appellant and the informant/ respondent no. 2 had affair and they were known to each other however, later on this fact surfaced to all the villagers this FIR has been instituted in order to save her dignity.

On the other hand, learned counsel for the informant/ respondent no. 2 opposed the prayer for bail application and submits that specific allegation has been levelled against the appellant that he committed rape upon her and so far the date mentioned in the FIR is concerned, the same may be a result of inadvertence as the FIR has been written by some another person. He also submits that in course of trial the informant/ respondent no. 2 had also filed an affidavit stating the real facts as to how she was subjected to rape.

Learned counsel for the State also drawn the attention of this Court towards Paragraphs 25,26,27,28 of the case diary wherein the statement of independent witnesses have been recorded, who have categorically stated that the victim was waiting for the appellant in the hotel and thereafter, when the appellant came both of them went to a room and remained over



for the night in the hotel.

Regard being had to the submissions made on behalf of the parties and considering the statement of independent witnesses, supported by C.C.TV footage apart from the fair antecedent of the appellant and period of custody as also the fact that charges have been framed, let the above named appellant, be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-III cum Special Judge SC/ST Saharsa in connection with Special case no. 30 of 2022 arising out of Mahila P.S.Case No. 64 of 2021 subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable



to be cancelled.

Accordingly, the impugned order dated 22.04.2022 is hereby, set aside and the present appeal stands allowed.

**(Harish Kumar, J)**

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