

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1707 of 2022**

Arising Out of PS. Case No.-43 Year-2020 Thana- BIRUPUR District- Lakhisarai

Rocky Kumar @ Rohit Kumar, Son of Birju Ram, Resident Of Village + P.S.-
Birpur, District- Lakhisarai

... .. Appellant/s

Versus

1. The State of Bihar
2. Mani Kant Paswan, Son of Chandradeo Paswan, Resident of Village + P.S.-
Birupur, Distt.- Lakhisarai

... .. Respondent/s

Appearance :

For the Appellant	:	Mr. Bijay Kumar Pandey, Advocate Mr. Mukesh Kumar, Advocate
For the State	:	Mr. Usha Kumari-1, Spl.P.P.
For the Informant	:	Mr. Ram Jiban Pd. Singh, Advocate

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

7 12-10-2022 Heard learned counsel for the appellant and the

learned Special P.P. for the State as well as the learned counsel

for the informant.

The appellant has preferred the present appeal under
Section 14A(2) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act for setting aside the order dated
19.04.2022 passed by the learned VIth Additional Sessions
Judge-cum-Special Judge, SC/ST Act, Lakhisarai in Bail
Petition No.826 of 2022 (arising out of Birpur P.S. Case No.43
of 2020, corresponding to SC/ST No.72/2020), whereby the
prayer for regular bail on behalf of the appellant has been
rejected in connection with Birpur P.S. Case No.43 of 2020



instituted for the offence under Sections 366(A)/34 of the I.P.C., Section 3(2)(va) of the SC/ST (Prevention of Atrocities) Act, and thereafter charge-sheet has been submitted under Sections 4/5, 4/6 of the POCSO Act.

Appellant's prayer for bail was earlier rejected on 27.07.2021 in Cr.Appeal (SJ) No.2845 of 2021. He has renewed his prayer for bail.

It is submitted that as per medical examination, the victim girl was assessed to be of between 18-19 years old, therefore, no offence under POCSO Act is made out. It is also submitted that since there is no ingredients of the offence under SC/ST Act, case under SC/ST Act would also not be made out. The third submission is that the victim girl has made inconsistent statements while being examined under Section 161 Cr.P.C. and thereafter under Section 164 Cr.P.C. Lastly, it is submitted that the petitioner has remained in custody for nearly one year ten months.

Learned counsel for the informant as well as learned Special P.P. submits that from the statement of the victim under Section 164 Cr.P.C., as contained in paragraph 41 of the case diary, it is obvious that she has supported the prosecution case, claimed to be 15 years old and alleged rape at least 5-6 times by



the appellant at different places after intoxicating her.

Appellant counsel's submission regarding medical assessment of her age is also noted only to be rejected as it is only a radiological opinion.

Considering the above submissions and having regard to the statement of the victim recorded in the case diary, this Court is not inclined to allow the prayer for bail. The prayer for bail is rejected. Consequently, the appeal is dismissed.

This Court would expect that the appellant's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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