

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2145 of 2022

Arising Out of PS. Case No.-72 Year-2022 Thana- PHULWARISHARIF District- Patna

Ritik Raj S/o Pankaj Sharma, R/o village- Dhanaut, Sahay Nagar, P.S.-
Rupaspur, District- Patna

... .. Appellant/s

Versus

1. The State of Bihar
2. Radhika Kumari D/o Late Chandragobind Ram R/o Mohalla- Baluan, P.S.-
Kishangar, District- Bhojpur, at present Mohalla- Ranipur, P.S.-
Phulwarisharif, District- Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Abhijeet Abhigyan, Advocate
		Mr. Kumar Prabhakar, Advocate
For the State	:	Mr. Binay Krishna, Spl. P.P.
For the informant	:	Mr. Dharmendra Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 17-11-2022

Heard learned counsel for the appellant, learned
counsel for the State and learned counsel for the
informant/respondent No.2.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks.

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 20.50.2022 passed by learned Special Judge, SC/ST
Act, at Patna in connection with Phulwarisharif P.S. Case No.
72 of 2022 registered for the alleged offences under Sections



420, 376, 504, 506 of the Indian Penal Code and Sections 3 (i) (r)(s)/3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the informant/respondent No.2 came into contact with the appellant and on false pretext of love, the appellant made physical relationship with the informant on a number of occasions. The appellant surreptitiously prepared a video of their act. The appellant used to ask the informant to pose in nude on video call and further used to record the same. The appellant also started blackmailing the informant and demanding money. On one such occasion appellant called the informant at a certain place and during his attempt to blackmail the informant, she got the appellant arrested by the police.

Learned counsel for the appellant submits that the appellant has been falsely implicated in this case and he has not committed any offence as alleged. It is very much clear from the F.I.R. that the act of the informant was consensual and it is not believable that any person can force a lady on video call to pose in nude for him. Learned counsel further submits that the statement of the victim/informant was recorded under Section 164 of the Cr.P.C. wherein she has stated that the informant and



appellant indulged in sexual intercourse in zoo, which shows that the act happened with her consent because the zoo is a public place and no forceful intercourse can take place in such place. Since the act of the informant was consensual, there would be no application of Section 376 of I.P.C. in the present case. Learned counsel further submits that it is a matter of love affair between two consenting adult and the appellant is only 23 years old boy. The appellant is in custody since 31.01.2022 and charge-sheet has been submitted in this case.

Learned Special PP as well as learned counsel appearing on behalf of the informant/respondent No.2 oppose the submission made on behalf of the appellant. Learned counsel for the informant submits that the appellant duped the informant in establishing physical relationship with her on pretext of the marriage and taking advantage of the weaker position of the informant, he prepared a video of his obscene act.

Having regard to the facts and circumstances and considering the submission made on behalf of the parties and further considering the apparently consensual nature of act of the informant and further considering the period of custody of the appellant along with submission of charge sheet, he 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 Special Judge (SC/ST) Act, Patna in connection with Phulwarisharif P.S. Case No. 72 of 2022, 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)

Ashish/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	18-11-2022
Transmission Date	18-11-2022

