

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2414 of 2022**

Arising Out of PS. Case No.-40 Year-2022 Thana- MAHILA PS District- Gaya

=====

Brajesh Kumar @ Brajesh Yadav @ Yadav S/o Sita Ram Prasad R/o village-
Kanhaiyabigha, P.S.- Atri, District- Gaya

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Ajay Kumar Sinha, Advocate
For the Respondent/s : Ms.Usha Kumari 1, Special P.P.

=====

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

4 22-09-2022 1. Heard learned counsel for the appellant and

learned Special P.P. for the State, on point of admission and on

merit also.

2. The appellant has preferred the present appeal
under Section 14A(2) of the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act (for short ‘the Act’) against
the order dated 16.06.2022 passed by the learned Exclusive
Special Judge SC/ST, Gaya in connection with Gaya Mahila P.S.
Case No. 40 of 2022 registered under Sections 354, 354(A),
354(B), 35(c), 354(d), 504 and 34 of Indian Penal Code read
with under Section 3(i)(r)(s), (2 (v-a) of the SC/ST (POA) Act
and u/s 67, 67(A) of I.T. Act.

3. Present appeal is well within limitation as
prescribed under Section 14A(3) of the Act.



4. Notice has been issued to Respondent no.2, served upon, but failed to join present proceeding.

5. Appellant is named in F.I.R. and is in custody since 23.05.2022.

6. The allegation against the appellant is to outrage modesty of informant/victim and also to capture her nude photos in mobile, along with other co-accused persons.

7. Learned counsel for the appellant submitted that entire allegation against this appellant is based upon electronic evidence, where no mandatory certificate has been obtained under Section 65(B) of the Indian Evidence Act. It is submitted that even from perusal of statement of victim/informant, as recorded under Section 164 of the Cr.P.C., allegation against the appellant is very much general and omnibus in nature. While concluding the argument, it is submitted that appellant is a man of clean antecedent and, moreover, investigation in this case is complete for which charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in ***State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported***



in 2015 (153) AIC 276.

9. Learned Special P.P. for the State, while opposing the prayer of bail submitted that informant/victim supported the occurrence, through her statement as recorded under Section 164 of the Cr.P.C.

10. In view of the facts and circumstances, as mentioned above, as charge-sheet has been submitted without obtaining mandatory certificate under Section 65(B) of the Indian Evidence Act, where entire allegation is based upon electronic evidences, let the appellant, above named, is directed to be released on bail in connection with Gaya Mahila P.S. Case No. 40 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST, Gaya/concerned Court, subject to the following conditions:

“(i) That appellant shall not involve in the similar nature of offence till the conclusion of trial, failing which, the State shall be at liberty to move before the Trial Court itself for the cancellation of bail bond of the appellant.



(ii) That one of the bailors shall be
Sita Ram Prasad, who is the father of the
appellant and deponent of the present
appeal.”

11. Accordingly, impugned order dated 16.06.2022 is
set aside.

12. Hence, appeal stands allowed.

13. The presence of I/O of this case, before this Court,
is dispensed with.

(Chandra Shekhar Jha, J)

R.S.Sen/-

U		T	
---	--	---	--

