

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 2620 of 2022

Arising Out of PS. Case No.-190 Year-2022 Thana- BIHPUR District- Bhagalpur

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Hawan Kumar Sah @ Hawan Kumar S/O Late Jaleshwar Sah @ Jalo Sah @
Janandhar Sah Resident of village- Haria P.S.- Bihpur District- Bhagalpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Puja Devi D/O Singeshar Paswan Resident of village- Hario P.S.-
Maheshpur, District- Bhagalpur

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Paras Nath, Adv.
For the Respondent/s	:	Mr. Binay Krishna, Spl.P.P.
For the Respondent No.2:	:	Mr. Dilip Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

- 3 21-12-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the appellant, learned
counsel for respondent no. 2 and learned S.P.P. for the State.

The present appeal has been filed against the order
dated 13.07.2022 passed Special SC/ST Case No. 60 of 2022,
arising out of Bihpur Police Station Case No. 190 of 2022 by
learned 3rd Addl. Sessions Judge-cum-Special Judge, SC/ST,
Bhagalpur.

As per the prosecution case, the informant has
disclosed that on 14.04.2022 at about 7 p.m. she was returning
to her village with her mother from *Jhandapur* market, when
she reached near orchard of Pramod Jain, the appellant along
with other accused persons armed with weapons stopped them
and offered money to develop physical relation with him. On

refusal, he started abusing them. The further allegation is that the appellant forcefully took the informant in the said orchard and the other co-accused threatened the informant's mother. It has been alleged that the appellant raped the informant and thereafter fled away towards maize field. They also threatened to kill the informant and her mother.

Learned counsel for the appellant submits that the allegation made in the F.I.R. has not been supported by the witnesses as well as the C.C.T.V. footage is not supporting the commission of the reference. Learned counsel for the appellant submits that in the case diary different independent witnesses only narrated that a dispute took place due to snatching of mobile of the informant by the appellant. And due to this reason the present case has been lodged in which allegation of rape has been alleged. Learned counsel for the appellant submits that appellant is ready to fulfill all the conditions whatsoever shall be imposed upon him.

Learned counsel for the respondent no. 2 vehemently opposes the prayer for bail and submits that the victim has fully supported the allegation of rape in her statement made under section 164 of the Cr.P.C. and therefore the prayer for bail may be rejected. Upon specific call whether charge has been framed

or not, learned counsel for the appellant submits that charge has already been framed against the present appellant and others.

In the present facts and circumstances of this case and the submissions made above, I am not inclined to grant bail to the appellant at present.

Liberty is hereby granted to the appellant that he may renew his prayer for bail 5 months from the date of trial shall be concluded.

Trial Court is directed to release the appellant on bail, if evidence has not been concluded within 5 months from the date of framing of charge, imposing its own conditions so that he may not evade his appearance during trial.

Accordingly, the impugned order dated 13.07.2022 passed Special SC/ST Case No. 60 of 2022, arising out of Bihpur Police Station Case No. 190 of 2022 by learned 3rd Addl. Sessions Judge-cum-Special Judge, SC/ST, Bhagalpur is set-aside and the present Cr. Appeal (SJ) stands allowed.

(Dr. Anshuman, J.)

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