

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2600 of 2022**

Arising Out of PS. Case No.-297 Year-2021 Thana- TEKARI District- Gaya

Shambhu Kumar @ Shambhu Sao S/O Sri Akhilesh Sao @ Akhilesh Sharma
Resident of village- Chitaukhar, P.S.- Mau, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Rita Devi W/O Manoj Manjhi Resident of village- Rajpur, P.S.- Tekari,
District- Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Sr. Advocate
	:	Ms. Vaishnavi Singh, Advocate
	:	Mr. Ritvik Thakur, Advocate
For the State	:	Mr. Binay Krishna. Spl. P.P.
For the Informant	:	Ms. Alka Verma, Advocate
	:	Ms. Nandita Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

- 3 01-12-2022 1. Heard learned senior counsel for the appellant,
learned Special P.P. for the State and learned counsel for the
informant, 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 27.06.2022 passed by the learned Exclusive Special Judge, SC/ST, Gaya in connection with Tekari P.S. Case No. 297 of 2021 registered under Sections 366A and 34 of Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(v) of the Act.

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

4. It is submitted by learned Special P.P. that notice has been issued to Respondent no.2, served upon and duly represented.

5. Appellant is named in F.I.R. and is in custody since 20.04.2022.

6. The allegation against the appellant is to kidnap the minor daughter of the informant, aged about 15 years, for the purpose of illicit intercourse.

7. Learned senior counsel for the appellant submitted that appellant has been falsely implicated in the present case out of failed love affair. It is submitted that victim appears major, for the reason, as her age appears to be 18-19 years, as per medical examination report. It is also submitted that the allegation of kidnapping and sexual assault is completely denied by the victim herself, while recording statement u/s 164 of the



Cr.P.C. It is further submitted that nothing surfaced from bare perusal of the F.I.R., which may, on its face, suggest that the act of appellant attract atrocities within the meaning of the Act. 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 chargesheet has already been submitted, as such, there is no chance of tampering with the evidence.

8. Learned senior 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 duly assisted by learned counsel, Ms. Alka Verma alongwith Ms. Nandita Kumari, for the informant, while opposing the prayer of bail, submitted that informant is receiving threat on regular basis from the parents of the appellant. It is further submitted that the consent of victim is not relevant, as she was minor at the time of occurrence.

10. In view of the facts and circumstances, as mentioned above, as victim negated the allegation of kidnapping



and sexual assault against this appellant coupled with the fact that chargesheet has been submitted, let the appellant, above named, is directed to be released on bail in connection with Tekari P.S. Case No. 297 of 2021 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 accused/appellant shall not tamper with the evidence or witnesses of this case, in any manner, failing which the State shall be at liberty to move before the learned Trial Court itself for the cancellation of bail bond of the appellant.

(i) That appellant shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellant, duly supported by the documents.

(ii) That one of the bailors shall be



the close relative of the appellant.”

11. Accordingly, impugned order dated 27.06.2022 is
set aside.

12. Hence, appeal is allowed.

(Chandra Shekhar Jha, J)

Ankit/-

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