

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2646 of 2022

Arising Out of PS. Case No.-2 Year-2022 Thana- MAHILA P.S. District- Madhepura

Arjun Kumar @ Arjun Yadav, Son of Buccho Yadav @ Bucho Yadav,
Resident of village - Lalpur, Ward No.- 8, P.S.- Singheshwar, District -
Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Punam Devi Wife of Sourav Ram R/o village - Lalpur, Ward No.- 7, P.S.-
Singheshwar, District - Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Nafisuzzoha, Advocate
		Mr. Satyendra Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Special PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-12-2022

Heard learned counsel for the appellant and learned
counsel for the State.

No one appears on behalf of the respondent No.2 in
spite of valid service of notice.

Let the defect (s), if any, 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 12.07.2022 passed by learned Additional District
and Sessions Judge-1st, Madhepura, in connection with SC/ST



Case No. 15 of 2022 arising out of Madhepura Mahila P.S. Case No. 02 of 2022 registered for the alleged offences under Sections 341, 323, 376, 379, 504, 506/34 of the Indian Penal Code and Sections 3 (I)(r)(s)/3(I) (WI) (WII) 2(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

As per the prosecution case, the allegation against the appellant is that he forcibly established sexual relationship with the informant, a lady of *Mahadalit* category and continued it for three years and further allegation is that he committed rape with her on 24.12.2021.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. From the F.I.R., it is clear that the informant was in relationship with the appellant for more than three years and she did not make any complaint prior to filing of the present F.I.R., so it was a consensual relationship between the appellant and the informant. In fact, it is the informant who wanted to continue the relationship with the appellant whereas the appellant wanted to withdraw from the relationship. Even the husband of the informant was knowing about the relationship of the appellant and the informant. When the father-in-law of the



informant opposed the relationship, the informant left her matrimonial home. Thus, learned counsle for the appellant further submits that there would be no application of Section 376 of the IPC in this case as it is a case of physical relationship between two consenting adult. The medical report does not show any sign of recent sexual intercourse. The appellant is in custody since 14.05.2022 and charge-sheet has been submitted in this case.

Learned Special PP though opposes the prayer for bail, however, he concedes that the circumstances are overwhelmingly supportive of the case of the appellant.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the nature of allegation against the appellant with accompanying facts 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 Additional District & Sessions Judge-1st, Madhepura in connection with SC/ST Case No. 15 of 2022 arising out of Madhepura Mahila P.S. Case No. 02 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	NAFR
CAV DATE	NA
Uploading Date	15-12-2022
Transmission Date	15-12-2022

