

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2817 of 2022**

Arising Out of PS. Case No.-39 Year-2022 Thana- MAHILA P.S BAGHA District- West
Champaran

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Raju Yadav, Son of Sheo Nath Yadav, Resident of Village - Bheriharitharu
Tola, P.S.- Valmiki Nagar, District - West Champaran.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sumitra Kumari, Daughter of Ram Nath Uraon, R/o vill- Compart Bherihari,
P.S.- Valmikinagar, Dist- west Champaran

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Y.C. Verma, Sr. Advocate Mr.Prithvi Nath Mishra, Advocate
For the State	:	Mrs.Usha Kumari 1, Spl.P.P.
For the respondent no.2	:	Mr. Vijay Kumar Singh No.1, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 19-12-2022

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

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 16.07.2022 passed by the learned Additional District
and Sessions Judge, 1st-cum-Special Judge (SC & ST), Bettiah,



West Champaran in connection with Bagaha Mahila P.S. Case No.39 of 2022, registered under Sections 376, 313 of the Indian Penal Code and Section 3 (i) (r) (s) (w), 3 (ii) (va) of the SC/ST (POA) Act.

As per prosecution case, the appellant started sexually exploiting the informant giving her allurements of marriage. When the informant became pregnant, the appellant gave her some medicines causing termination of her pregnancy. When the informant scolded the appellant for cheating her, the appellant abused and assaulted her and threw her out from his room.

Learned senior counsel appearing on behalf of the appellant submits that the informant was earlier married with one Dinesh Yadav and after two years of marriage, they separated before the *Panches* of the village and the informant took money from her earlier husband. The informant is in the habit of lodging such cases to extort money. It is apparent from the FIR that the appellant is also married with three children and the informant was knowing this fact and despite this fact, she entered into sexual relationship with the appellant and continued the same for one and half year. So, it is a case of sexual relationship between two consenting adults and, as such, no



question arises for committing rape with the informant. The learned senior counsel further submits that there is no positive medical evidence that the appellant caused termination of pregnancy of the informant. The learned senior counsel further submits that another aspect of the case is that when the appellant refused to solemnize marriage with the informant, she filed this false case due to annoyances and to extract the revenge. The appellant is in custody since 10.05.2022 and the charge sheet has been submitted.

Learned Special PP as well as learned counsel for the informant oppose the prayer for bail. The learned counsel for the informant submits that there is specific allegation of rape against the appellant and further allegation against the appellant is that he administered medicines to the informant causing her abortion.

Perused the records.

Having regard to the facts and circumstances and submissions made here-in-above and considering the consensual nature of act of the informant and lack of further substantive material against the appellant for the allegations levelled and further considering his period of custody and submission of charge sheet, let the appellant, above named, be released on bail,



on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge, 1st -cum-Special Judge, SC/ST Act, Bettiah, West Champaran, in connection with Bagaha Mahila P.S. Case No. 39 of 2022, subject to 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)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	20.12.2022
Transmission Date	20.12.2022

