

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2793 of 2022

Arising Out of PS. Case No.-61 Year-2022 Thana- FESHAR District- Aurangabad

Abhishek Kumar @ Bikku Kumar, Son of Binod Kumar Singh @ Vinod Singh, Resident of Village - Mirjapur, P.S. - Fesar, District - Aurangabad (Bihar).

... .. Appellant/s

Versus

1. The State of Bihar
2. Arti Devi, wife of Dharmendra Paswan, Resident of Village - Mirjapur, P.S. - Fesar, District - Aurangabad (Bihar).

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Aman Vishal, Advocate
For the State	:	Mr.Uma Shankar Prasad Singh, Spl.PP
For the Respondent no.2:		Mr. Rahul Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 08-12-2022

Heard learned counsel for the appellant and learned Spl.PP for the State as well as learned counsel for the informant.

Let the defect (s), 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 23.05.2022 passed by the learned 1st Additional District and Sessions Judge (SC/ST), Aurangabad in connection with Fesar P.S. Case No. 61 of 2022, registered for the alleged offences under Sections 341, 323, 504, 354 and 354B of the Indian Penal Code and Sections 3 (1) (r), 3 (1) (s) and 3(1)(e) of the Scheduled Castes



and Scheduled Tribes (POA) Act, 1989.

As per the prosecution case, while the informant was returning with his ailing son after getting him treated from a doctor, the appellant sexually assaulted her. He also assaulted the boy who was accompanying the informant and the appellant abused the informant and the boy by taking their caste name.

The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. No occurrence as alleged has ever taken place. No witness has come forward to say that he had seen the occurrence. There is no eye-witness to the occurrence and this is surprising as alleged occurrence took place in the market area. It has also been alleged that the appellant slammed the three years old son of the informant on ground several times. There is no injury report for the son or the boy who was assaulted by the appellant. Only two witnesses have been examined by the police but both of them stated that they reached the place of occurrence after alleged occurrence have already taken place. The appellant is in custody since 05.05.2022 and the charge sheet has been submitted in this case.

Learned Spl.PP as well as learned counsel for the informant/respondent no.2 vehemently oppose the submission made on behalf of the appellant. Learned counsel submits that there is specific allegation against the appellant in the FIR itself



and further the witnesses in paragraphs 11 and 12 have stated the prosecution case. However, he concedes that these witnesses are not eye-witnesses. Learned counsel further submits that the appellant is having criminal antecedent.

Perused the records

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the lack of substantive material against the appellant and also considering the period of custody of the appellant and submission of charge sheet against him, the appellant above named 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 1st Additional District and Sessions Judge (SC/ST), Aurangabad in connection with Fesar P.S. Case No. 61 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also 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)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.12.2022
Transmission Date	13.12.2022

