

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2945 of 2022

Arising Out of PS. Case No.-29 Year-2022 Thana- PUNAURA District- Sitamarhi

Rajiv Mahto S/o Parshuram Mahato R/o village- Maniyari, Ward No. 07, P.S.-
Punaura, District- Sitamarhi, Pin Code- 843302 (Bihar)

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanju Kumari D/o Dinesh Das R/o village- Maniyari, P.S.- Punaura, District-
Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant : Mr. Uday Kumar, Advocate
For the State : Ms. Usha Kumari 1, Spl.PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 14-12-2022 1. Heard learned counsel for the appellant and
learned Special P.P. for the State, 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 27.07.2022 passed by the learned Ist Additional
and Sessions Judge-cum-Special Judge SC/ST,(POA) Act,
Sitamarhi in connection with Punaura P.S. Case No.29 of 2022
registered under Sections 341, 323, 354(B), 376, 511, 504 and
34 of the Indian Penal Code and Section 3(i)(r)(s)/3(2)(va) 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 information has been given to the informant, in terms of the order dated 02.11.2022 about the present Court proceedings, where informant is duly represented.

5. Appellant is named in F.I.R. and is in custody since 17.02.2022.

6. The allegation against the appellant is to made an attempt to commit rape upon informant, while she was returning to her home after attending coaching class.

7. Learned counsel for the appellant submitted that lot of contradictions appear, while taking a collective note of F.I.R. where, informant/victim herself is author, *qua* statement recorded u/s 164 of the Cr.P.C. *qua* statement of informant's cousin sister, namely Guriya Kumari, who admittedly accompanied with the victim at the time of occurrence. It is submitted that, while victim stated that an attempt of rape was made by this petitioner only, whereas Guriya Kumari, who is also the eye witness of the occurrence, stated that attempt of rape upon informant was made by co-accused, namely Rajiv Mahto, and also by Vikash Kumar son of Shivpujan Sahani. It



is also pointed out that medical report only suggest single and simple injury which was found upon informant/victim on her right ear lobule, creating a doubt whether any pressing of neck took place as alleged by informant through her complaint. It is also 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 investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

8. Learned 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 appearing on behalf of informant, opposes the prayer of the bail.

10. In view of the facts and circumstances, as mentioned above, and by taking contradictory statement of informant/victim *qua* eye witness coupled with the fact chargesheet has been submitted, where appellant is in custody



since 17.02.2022 let the appellant, above named, is directed to be released on bail in connection with Punaura P.S. Case No.29 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Ist Additional Sessions Judge-cum-Special Judge SC/ST, (POA) Act, Sitamarhi/concerned Court, subject to the conditions, as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 27.07.2022 is set aside.

12. Hence, appeal is allowed.

(Chandra Shekhar Jha, J)

S.Tripathi/-

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