

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.4170 of 2021**

Arising Out of PS. Case No.-534 Year-2020 Thana- ALAMGANJ District- Patna

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SHOURYA @ SHAURYA KUMAR @ NIHAL KUMAR @ NIHAL Son of  
Mayanand Prasad Resident of Mohalla - Sadar Gali, P.S.- Khajekalan, Patna  
City, District - Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr.Priyanka Singh

For the Respondent/s : Mr.Binay Krishna

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

- 7      11-08-2022      1.      Heard learned counsel for the appellant and learned  
Special P.P. for the State as well as learned counsel for  
informant.
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 08.09.2021 passed by  
the learned A.S.J.-III-cum-Special Judge, SC/ST (POA)  
Act, Patna in connection with Alamganj P.S. Case No.  
534 of 2020 registered under Sections 376, 504, 506 and  
34 of Indian Penal Code, Sections 3(i)(r)/(3)(2)(Va) of the  
Schedule Caste and Schedule Tribe (POA) Act.
3.      Present appeal is well within limitation as



prescribed under Section 14A(3) of the Act.

4. Notice has been issued to informant, served upon and duly represented.
5. The appellant is named in FIR and is in custody since 12.08.2021.
6. The allegation against the appellant is to commit rape upon the victim in the background of false pretext of marriage.
7. Learned counsel for the appellant submitted that the version of informant/victim as per FIR is very much contradictory to that of statement recorded under Section 164 of Cr.P.C., as in FIR, the allegation is limited to kidnapping, whereas, in statement of 164 of the Cr.P.C., it has been stated that rape was committed upon her. It is also submitted that the appellant has already been granted provisional bail to solemnize the marriage with the informant/victim, but due to certain reasons it has not been negotiated. It is also submitted that due to strike at Bar, the appellant surrender before the court below after 10 days of the period of provisional bail. It is also submitted that present case has been lodged only for the reason that parents of the appellant was not in agreement



to arrange the marriage of the appellant with victim/injured. It is also submitted that informant was silent for long 7 years as the date of occurrence is 2013 and out of sudden present FIR was lodged in year 2020. It is submitted by learned counsel that from bare perusal of FIR, nothing appears, which may suggest that it is a case of atrocities, within meaning of the Act. While concluding the argument, it has been submitted that investigation of this case has been completed, for which, charge-sheet has already 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 of the informant, while opposing the prayer of bail submitted that there is specific allegation of rape against this appellant, as per statement of victim recorded under Section 164 of the Cr.P.C. It is also submitted that provisional bail was granted to the



appellant only after specific assurance that he will solemnize marriage with informant but he failed to do so during bail period and moreover, he surrenders before the trial court after 10 days of permitted period, only after issuance of non-bailable warrant.

10. In view of the submissions, as made above, as there is specific allegation against appellant to commit rape upon informant/victim coupled with the fact that no effective steps were taken by the appellant during the period of provisional bail, as assured before this Court, this Court, at present, is not inclined to grant bail to the appellants.

11. Accordingly, the prayer of bail of the appellants is rejected herewith with.

12. Hence, appeal stands dismissed.

13. Trial Court is directed to proceed with the matter, by taking it on board, on daily basis, so as trial may conclude within six months from the date of receipt of the order of this Court.

14. S.S.P, Patna, is directed to produced the charge-sheeted witnesses, as and when directed by the Trial Court, for expeditious disposal of trial, within specified



time, as directed above.

**15.** During hearing of the bail petition, it has been submitted by learned counsel for the appellant that the health condition of the appellant is not good and suffering from several ailments and requested to direct the Jail Authority to look into the matter.

**16.** Let this order be sent to Jail Superintendent also to take all necessary steps, as per Jail Manual, in view of the submission, as made above,

**(Chandra Shekhar Jha, J)**

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