

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4408 of 2021**

Arising Out of PS. Case No.-36 Year-2021 Thana- SC/ST District- Sitamarhi

NAND KISHOR SAH @ NANDESHWAR KUMAR S/o- LATE
TILAKDHARI SAH Resident of Village- Mujeliya, P.S.- Bela, District-
Sitamarhi-843324

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Subodh Kumar, Adv.

For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

2 11-01-2022 Heard learned counsel for the appellant and learned Special
Public Prosecutor for the State through virtual mode.

Learned counsel for the appellant undertakes to remove the defects as pointed out by the office, within four weeks from resumption of normal court proceedings. In the eventuality of non-removal of defects within stipulated period, the office will place the matter before the Bench.

This is an appeal under section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer for bail vide order dated 29.09.2021, passed by learned Special Judge (SC/ST), Sitamarhi, in connection with SC/ST P.S. Case No.36/2021, registered under sections 341, 323, 354, 504, 506 of the IPC read with sections 3(i)(r)(s)(w)(i)/3(2)



(va) of the SC/ST (POA) Act.

The prosecution case in brief, is that the informant while working as a Nurse in the private hospital came in contact of the appellant and developed physical relationship. Thereafter, they got married in the temple but thereafter parents of the appellant came to their house and abused the informant by taking caste name and refused to take her to the appellant's house.

It is submitted by learned counsel for the appellant that no such occurrence as alleged has ever taken place. The appellant is innocent and has not committed any offence rather he has been falsely implicated in this case with ulterior motive. The informant is a 35 year old, married lady having five children and the name of her husband is Ashok Baitha, which is clear from the "Aapke Dwar Ayushman, Bihar" document at serial 12, 13, 14, 16 and 17 (Annexure-2) but she has deliberately not disclosed her husband's name and address in the FIR. The informant being a married lady without getting divorce cannot enter into second marriage. Moreover, she has no documents or photographs to prove her statement of marrying the appellant. It is further submitted that the appellant has given friendly loan of Rs.1 Lac to the informant and in order to not return the said amount, the present case has been filed. It is further submitted that there is no specific allegation



against the appellant of abusing the informant, as such, no case under SC/ST Act is made out against the appellant. Also, there is no allegation that the alleged occurrence, has taken place in public view. The appellant has no criminal antecedent and has been languishing in custody since 01.09.2021.

From perusal of the facts and circumstances, this court is of the view that prima facie, no case under the SC/ST Act is made out against the appellant as no allegation of abusing the informant is attributed to the appellant nor the said occurrence has taken place in public view, as such, no notice is required to be issued to the informant, which is otherwise required in a case the SC/ST Act.

In the facts and circumstance of the case, the above named appellant is directed to be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge (SC/ST), Sitamarhi, in connection with SC/ST P.S. Case No.36/2021.

The impugned order is set aside and the appeal is allowed.

(Anjani Kumar Sharan, J)

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