

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4415 of 2021

Arising Out of PS. Case No.-354 Year-2021 Thana- AKBARPUR District- Nawada

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Rohit Kumar Son of Ranjit Singh Resident of village - Itwa , P.S.- Akbarpur,
Distt.- Nawada.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sarita Kumari daughter of Saryaq Rajvanshi Resident of Village- Itwan,
P.S.- Akbarpur, District- Nawada

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Pramod Kumar, Advocate.

For the Respondent/s : None.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

6 07-07-2022 Learned counsel for the Appellant is permitted to
remove defect(s), as pointed out by the office, if any, within a
period of four weeks from today.

Heard Mr. Pramod Kumar, learned counsel for the
Appellant but no-one appears on behalf of the State.

From the record, it appears that notice has been issue
to the newly added respondent no. 2 but it has been pointed out
that she refused to accept the notice and the same has been
accepted by her mother. A jointness petition has already been
filed.

In view of the aforesaid fact, the notice is deemed to
be validly served.

This is an appeal under Section 14 A (2) of the



Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 30.09.2021 passed by the learned Additional Sessions Judge- 1st, SC/ST (Prevention of Atrocities) Act, Nawada in connection with Akbarpur P. S. Case No. 354 of 2021 registered for the offences punishable under Sections 376, 420 and 313 of the Indian Penal Code and Section 3 (ii) (v) of the SC/ST (Prevention of Atrocities) Act.

The prosecution case is based on the written report of the informant/respondent no. 2, who alleged that on the pretext of marriage, the appellant has been continuously making physical relationship with her and on 15.03.2020, she was taken to Maharashtra, in the meantime, she conceived and had pregnancy, which was aborted by the appellant. It is further alleged that both the appellant and the respondent no. 2 remained in Maharashtra for a year, thereafter, they returned to their village but family members of the appellant did not allow to enter them in their houses. Panchayati was also held but the appellant also refused to marry her.

Learned counsel appearing on behalf of the appellant submitted that from the F.I.R., it is evident that the



respondent no. 2 was taken away by the appellant to Maharashtra but surprisingly, no complaint or any F.I.R has been instituted and moreover, the allegation of taking away the victim on 15.03.2020 falsify for the simple reason as the appellant had come to his village in May, 2020 and he was kept in quarantine for fourteen days. In support of the aforesaid contention, prescription has been annexed as annexure 2 to this petition. It is also submitted that there is no chit or any paper or medical report in support of the allegation of abortion or sexual relationship and even if there had been any relationship, which was a consensual in as much as the F.I.R. has been instituted after one year. It is next submitted that the victim was also examined by doctor and her age has been assessed in between 18-20 years and moreover, even the learned court has assessed the age of the victim 18 years at the time of recording of her statement. It is lastly submitted that the appellant is in custody since 12.09.2021, while rejecting the bail application of the appellant, learned court has taken note of the fact that the specific allegation has been levelled against the appellant and the victim has supported the prosecution case in her statement recorded under Section 164 Cr.P.C.

Having considered the submissions made on behalf



of the parties and taking into account the fact that there is inordinate delay in lodging the F.I.R. in as much as during the course of investigation, it has come that both the parties had love affairs but it could not be culminated into marriage and there was some dispute, apart from that there are other contradiction in the statement of the victim and moreover the victim has been found to be major and the appellant is in custody since 12.09.2021, having fair antecedent, let the appellant, above named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (SC/ST Prevention of Atrocities Act)-cum-Additional District and Sessions Judge- 1st, Nawada in connection with Akbarpur P. S. Case No. 354 of 2021.

In view of the aforesaid fact, the impugned order dated 30.09.2021 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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