

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4440 of 2021

In
CRIMINAL MISCELLANEOUS No.10334 of 2020

Arising Out of PS. Case No.-97 Year-2013 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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TAPESH CHANDRA SAHA S/o Sadhu Charan Saha Resident of Village-
Kusaha, P.S.- Balia Belown, District- Gaya.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Vinod Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 23-11-2022 Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

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 **anticipatory bail** vide order dated 18.12.2019 in ABP No. 315 of 2019 passed by the learned Special Judge, SC/ST (POA) Act, Gaya in connection with Magadh Medical P.S. Case No. 97 of 2013 registered under Section 376 of the Indian Penal Code and Section 3(i)(xi) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities Act).

Learned counsel for the appellant submits that the



appellant is a person with clean antecedent and the informant alleges that on 20.10.2012, after cultural programme in the school, she was returning to her village when appellant requested her to stay with him at his residence where on pretext of marriage raped her, further when she came to know the appellant has performed his marriage she went to meet him at Purnia, where he again raped her on pretext of marriage.

Learned counsel for the appellant submits that the appellant has been falsely implicated in the present case, it is next submitted that from perusal of Annexure-3, it would manifest that the informant had refused for her medical examination, it is next submitted that from perusal of Annexure-2 which is issued by the Principal of the school, it would manifest that there was no such cultural programme in the school on the date when she alleges that the appellant had requested her and asked her to come to his residence where on pretext of marriage, raped her. The learned counsel for the appellant next submits that the absurdity of the allegation also manifests from the fact that the informant alleges that after she came to know that the appellant has married another girl, she came to meet him at Purnia where again he raped her on pretext of marriage. The learned counsel for the appellant next submits



that from the tenor of the allegations as alleged it appears that appellant and the informant were known to each other, the relationship was consensual and when the relationship soured a false case came to be instituted. The learned counsel for the appellant further submits that appellant has his own version and the informant hers, it is next submitted that according to the informant no such relationship was ever entered while the case of the informant is that she was raped on pretext of marriage, it is also submitted that allegations are in realm of allegations until and unless, it is adjudicated by a Court of Competent Jurisdiction for eliciting the truth, it is also submitted that, in the event, if the appellant presently is sent to jail the same may amount to travesty of justice, if the appellant in a duly constituted trial is acquitted of the charges, then how his period of incarceration would be compensated and, in the event, if the appellant is convicted by the learned trial court he will serve the sentence.

Learned counsel for the appellant submits that even police after investigation submitted final form dated 22.01.2015 (Annexure-6 to the anticipatory bail application), but the learned Magistrate differing with the police report took cognizance, it is further submitted that it absolutely does not stand to reason that



when an Investigating Agency after threadbare investigation submitted final form what materials transpired before the learned Magistrate to arrive at a prima-facie conclusion to take cognizance.

Learned Spl.P.P. for the State opposes the prayer for anticipatory bail of the appellant.

Considering the submissions made by the learned counsel for the appellant, the order dated 18.12.2019 in ABP No. 315 of 2019 passed by the learned Special Judge, SC/ST (POA) Act, Gaya in connection with Magadh Medical P.S. Case No. 97 of 2013 is hereby set aside and the appellant above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount to the satisfaction of the learned trial court where the case is pending/successor court in connection with Magadh Medical P.S. Case No. 97 of 2013 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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