

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4464 of 2021

Arising Out of PS. Case No.-46 Year-2019 Thana- MAHILA P.S. District- Samastipur

AMIT KUMAR @ SANT JEE S/o Late Mani Kant Khaw @ Mani Kant Khan
R/o village- Deodha, P.S.- Hasanpur, District- Samastipur

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Reeta Devi Ram Balak Sada Resident of Village-Mangalgarh, Police Station-Hasanpur, District-Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sujit Kumar Singh
For the Respondent/s : Mrs.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 13-10-2022

Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Heard learned counsel for the appellant and learned Special Public Prosecutor for the State.

The instant appeal has been preferred by the appellant against the order dated 20.04.2021 passed by the learned 1st Additional Sessions Judge cum Special Judge, SC/ST Act, Samastipur whereby the prayer for bail of the appellant in connection with Samastipur Mahila P.S. Case no. 46 of 2019 registered under Sections 67, 67(A) of Information Technology Act, 2000, Section 376(D) of the IPC, and Section 3(2) (v) of the SC/ST, Act was rejected.



As per prosecution case, there is allegation against the appellant and others to have committed rape upon the informant.

Learned counsel for the appellant submits that the appellant is in custody since 22.07.2019 and bears no criminal antecedent. Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence. He further submits that alleged occurrence took place on 09.07.2019 and the information regarding the alleged occurrence was given to police station first time on 22.07.2019 after long delay of 13 days which itself creates doubt about the prosecution case. He further submits that having similar allegation co-accused Sonu Kumar Singh has already been granted bail vide Cr. Appeal (SJ) No. 387 of 2021. He further submits that there is no material on record to show the complicity of the present appellant with the alleged occurrence. He further submits that allegations are not supported by any medical report or evidence. The appellant is not found in the video, which has been recovered during the course of investigation.

The learned Special Public Prosecutor for the State vehemently opposed the prayer for bail of the appellant.

Considering the facts and circumstances of the case, period of custody, charge sheet has already been submitted in this



case and there is no likelihood of tampering with the prosecution evidence, similarly situated co-accused Sonu Kumar Singh has already been granted bail by the co-ordinate Bench of this Court, argument advanced on behalf of both sides and also taking into consideration the material available on record, impugned order dated 20.04.2021 is hereby set aside and present appeal is allowed.

The appellant is directed to be enlarged on bail in connection with Samastipur Mahila P.S. Case no. 46 of 2019 on furnishing bail bond of Rs.10,000/ (Rupees Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge cum Special Judge, SC/ST Act, Samastipur, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial Court itself.



(iii) If the appellant tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.10.2022
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