

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4518 of 2021**

Arising Out of PS. Case No.-325 Year-2021 Thana- KORHA District- Katihar

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Md Talib Ansari @ Abu Talib Ansari Son of Md. Shamim Ansari Resident of Village- Naya Tola, Bishanpur refuji tola, Ward No.01, P.S.- Korha, District- Katihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Sudhir Rajak (Informant) Son of Late Ganeshee Rajak Resident of Village- Nayatola Bishanpur, P.O. Bishanpur, P.S.- Korha, District- Katihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Satish Kumar, Advocate.
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 28-07-2022 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. Satish Kumar, learned counsel for the Appellant as well as learned Special Public Prosecutor 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 bail vide order dated 21.09.2021 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Katihar in connection with Korha P. S. Case



No. 325 of 2021 registered for the offences punishable under Sections 363, 366A read with 34 of the Indian Penal Code and Sections 3(i)(r)(s), 3(2)(va) of the SC/ST (Prevention of Atrocities) Act.

As per the prosecution case, it is alleged that on 19.07.2021 while the daughter of the informant had gone to market with her brother and sister to purchase some articles, in the meantime, co-villager, namely, Md. Talib Ansari (petitioner) took away his daughter on his motorcycle. The informant went to the house of the co-accused to know about his minor girl thereupon, all the accused persons started abusing by taking his caste name and assaulted.

Learned counsel appearing on behalf of the Appellant submitted that from the tenor of the F.I.R., it appears that there was love affair between both the victim girl and the petitioner and so far the allegation of abusing the informant by taking his caste name is concerned that has been alleged against other accused persons barring the appellant. It is further submitted that the statement of the victim was recorded under Section 164 Cr.P.C. and she has not made any allegation with regard to wrongful act against the appellant save and except that the petitioner and other co-accused took away to Katihar. It is



next submitted that the victim girl was also examined by the Medical Board where her age has been assessed in between 18 to 19 years. It is subsequently submitted that now the informant of the case has already been examined and he has already made his deposition and moreover, in his deposition he has categorically stated that the marriage of the victim has already solemnized and she is living with someone else and the appellant is in custody since 21.07.2021.

On the other hand, learned Special Public Prosecutor for the State opposes the bail application and submits that there is specific allegation against the appellant that the victim was taken away by him for the purposes of marriage and moreover, during the course of trial, the witnesses have supported the prosecution case and it is at the fag end and this petitioner also bears criminal antecedent.

Having considered the submissions made on behalf of the parties and taking into account the fact that the informant of this case has already been examined and the appellant is in custody since 21.07.2021, apart from the fact that the victim girl in her statement under Section 164 Cr.P.C. has not made specific allegation of doing any wrongful act against the appellant, 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 1st Additional Sessions Judge-cum-Special Judge, Katihar in connection with Korha P. S. Case No. 325 of 2021.

In view of the aforesaid fact, the impugned order dated 21.09.2021 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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