

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4573 of 2021**

Arising Out of PS. Case No.-21 Year-2021 Thana- MAHILA PS District- Gopalganj

VIJAY KUMAR YADAV Son of Birendra Yadav Resident of Village-
Chapiya, P.S.- Town, District- Gopalganj.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Ramesh Baitha Mahavir Baitha Resident of Village -Chapiya, P.S.-Town,
Gopalganj, District -Gopalganj

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ashhar Mustafa, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

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

- 3 19-05-2022 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

Vide order dated 03.02.2022 notice was directed to be
issued upon respondent no.2 and despite valid service of notice,
there is no representation on his behalf.

This is an appeal under section 14(A)(2) of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act,
(hereinafter in short referred to as the 'SC/ST Act') against the
refusal of prayer for bail vide order dated 15.09.2021 passed by
learned Sessions Judge VI- cum- Special Judge, POCSO,
Gopalganj, in connection with Gopalganj (Mahila) P.S. Case
No.21 of 2021, registered under sections 376 (3) of the IPC,



sections 4, 6 of the POCSO Act, 2012 and sections 3 (1) (w) (I) & 3(2)(v) of the SC/ST Act.

Allegedly, the appellant herein has committed rape upon the minor daughter of the informant.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in the case due to ulterior motive. It is further submitted that the medical report has not supported the prosecution case, as there was no evidence of sexual assault on the person of the victim. The occurrence took place on 23.06.2021 but the F.I.R. was lodged on 25.06.2021, after a delay of more than 60 hours, which creates doubt about the prosecution case. The accusation does not constitute any offence under SC/ST Act is made out inasmuch as there is no allegation that the alleged occurrence has taken place in public view. Charge sheet has been submitted in the present case. The appellant has been languishing in custody since 26.06.2021 and has no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for bail by submitting that there is a serious nature of allegation as the victim is a minor and the medical report also supports this fact. Furthermore, the victim in her statement recorded u/s 164



Cr.P.C. has supported the prosecution case.

Considering the submissions of the parties and that the victim has supported the prosecution case in her statement, I am not inclined to enlarge the appellant on bail. The prayer for bail to the above named appellant is rejected.

The appeal is accordingly dismissed.

(Anjani Kumar Sharan, J)

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