

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4616 of 2021**

Arising Out of PS. Case No.-72 Year-2021 Thana- MAHILA P.S. District- Nalanda

Shiv Shankar Sao @ Ravi Sao, Son Karu Sao, Resident of Village-
Bangauriya, P.S.- Wena, District- Nalanda.

... .. Appellant/s

Versus

1. The State of Bihar
2. Asha Kumari, Wife of Rudal Paswan, Resident of Bangauriya, P.S.- Wena,
District - Nalanda

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. S. K. Lal, Advocate
		Mr. Rudal Singh, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 30-06-2022 Learned counsel for the appellant is permitted to
remove the defect(s), as pointed out by the office, within a
period of four weeks from today.

Heard learned counsel appearing on behalf of the
appellant and learned Spl. PP for the State.

No one appears on behalf of respondent no.2

The present appeal under Sections 14(A) (2) of the
Scheduled Castes/Schedule Tribes (Prevention of Atrocities)
Act, (hereinafter referred to as the 'ST/SC Act') has been
preferred against the order dated 28.10.2021 passed by learned
1st Additional Sessions Judge-cum-Special Judge, Nalanda at
Bihar Sharif in connection with SC/ST Case No. 119 of 2021,



arising out of Mahila P.S. case no. 72 of 2021, registered for the offences punishable under Sections 376, 504/34 of the Indian Penal Code and Sections 3(1)(r)(s)(w), 3 (2)(v) of the SC/ST Act whereby and whereunder the prayer for grant of regular bail of the appellant has been rejected.

As per prosecution case, it is alleged that on 04.06.2021 at about 8.00 P.M. when the informant went to attend the call of nature, in the meantime this appellant forcibly committed rape on her.

Learned counsel for the appellant submits that though during the course of investigation it has come that there was some love affairs between the parties and when the husband of the informant seen her in compromising position thereafter this case has been filed.

Mr. Lal appearing on behalf of the appellant has drawn the attention of this Court towards the supplementary affidavit filed on behalf of the appellant bringing on record the depositions of the informant as well as her husband. From perusal of the depositions it appears that both the informant as well as her husband have not supported the prosecution case and categorically stated that no such occurrence has taken place. The appellant is in custody since 08.09.2021 having fair antecedent.



Learned Special Public Prosecutor appearing on behalf of the State submits that since the informant and her husband have not supported the prosecution case, as such, keeping the appellant behind the bar would not serve any purpose.

Having considered the submissions made on behalf of the parties and taking into the materials available on record which shows that both the informant and her husband have not supported the prosecution case, let the appellant, named above, 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, Nalanda at Bihar Sharif in connection with SC/ST Case No. 119 of 2021, arising out of Mahila P.S. case no. 72 of 2021, subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or



intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

Accordingly, the impugned order dated 28.10.2021 is hereby set aside and the present appeal is allowed.

(Harish Kumar, J)

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