

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4732 of 2021

Arising Out of PS. Case No.-300 Year-2021 Thana- KORHA District- Katihar

=====

Tinkesh Kumar Singh @ Pinkesh Kumar Son of Shankar Mehta @ Jay
Shankar Mehta Resident of Village - Champanagar Masuriya, P.S.- K. Nagar,
District - Purnia

... .. Appellant/s

Versus

1. The State of Bihar
2. Mahaveer Das son of late Mushahru Das R/o village- Rampur, P.O.-
Vishanpur, P.S.- Kodha, District- Katihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Rohit Kumar, Advocate
For the Respondent/s	:	Mr. Usha Kumari 1, Spl. PP
For Respondent No.2	:	Mr. Sanjeev Kumar Singh

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 14-07-2022 1. Heard learned counsel for the appellant, learned
Special P.P. for the State and learned counsel for Respondent
no.2, on point of admission and on merit also.

2. The appellant has preferred the present appeal
under Section 14A(2) of the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act (for short 'the Act') against
the order dated 25.10.2021 passed by the learned 1st Additional
District and Sessions Judge-cum-Special Judge, SC/ST Act,
Katihar in connection with Kodha P.S. Case No. 300 of 2021
registered under Sections 341, 323, 363, 366A, 504, 506 and 34
of Indian Penal Code and Sections 3(i)(r)(s) and 3(2)(va) of the
Act.



3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. Notice has been issued to Respondent no.2, served upon and duly represented.

5. Appellant is named in F.I.R. and is in custody since 16.07.2021.

6. The allegation against the appellant is to kidnap the daughter of the informant for the purpose of illicit intercourse and also to abuse the informant by caste name.

7. Learned counsel for the appellant submitted that there is major contradictions between the statement of victim, as recorded under Section 161 *qua* Section 164 of Cr.P.C. It is submitted that victim, specifically, stated that she, having love affairs with the appellant, solemnized marriage with him out of her own sweet will, whereas, in the statement recorded under Section 164 of Cr.P.C., she stated that she has solemnized marriage with the appellant under compulsion and also stated about the sexual assault/rape. It is further submitted that chargesheet has not been submitted under POCSO Act as victim was aged about 18 to 19 years at the time of occurrence, as per medical report. While concluding the argument, it is submitted that appellant is a man of clean antecedent and, moreover,



investigation in this case is complete for which chargesheet has been submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in ***State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276.***

9. Learned Special P.P. for the State, duly assisted by learned counsel for Respondent no.2, opposes the prayer of bail and submitted that appellant is alleged to have committed rape upon the victim, as per statement recorded under Section 164 of Cr.P.C.

10. Considering the facts and circumstances, as mentioned above, as there is major contradictions between the statement of victim, as regard to alleged occurrence coupled with the fact that chargesheet has not been submitted under POCSO Act, let the appellant, above named, is directed to be released on bail in connection with Kodha P.S. Case No. 300 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional District and Sessions



Judge-cum-Special Judge, SC/ST Act, Katihar, subject to the following conditions:

“(i) Appellant shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellant, duly supported by the documents.

(ii) That one of the bailors shall be Shankar Mehta @ Jay Shankar Mehta, who is the father of the appellant and deponent of the present appeal.”

11. Accordingly, impugned order dated 25.10.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

Ankit/-

U		T	
---	--	---	--

