

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3585 of 2022

Arising Out of PS. Case No.-64 Year-2021 Thana- MAHILA P.S. District- Kaimur (Bhabua)

Rakesh Singh, Son of Gaurishankar Singh, Resident of village - Akorhi, Post
Office - Nouhatta, Police Station - Belaon, District - Kaimur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajesh Kumar Pathak, Advocate
For the State	:	Mr. Binay Krishna, Spl.PP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 17-11-2022

Heard learned counsel for the appellant and learned
Spl. PP for the State.

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

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 against the refusal of prayer for bail vide
order dated 01.09.2022 passed by the learned Additional District
and Sessions Judge-1st-cum-Special Judge, Kaimur at Bhabua
in I.A. No. 01 of 2022 corresponding to SC/ST Reg. No. 21 of
2022 arising out of Bhabua (Mahila) P.S. Case No. 64 of 2021
registered for the alleged offences under Sections 376, 420, 323,
341, 504 and 34 of the Indian Penal Code and Section 3(X) (XI)

(XII) of SC/ST Act and later on corrected Sections vide order dated 13.12.2021 as 3(1)(r)(w)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

As per prosecution case, the appellant enticed away the informant giving her inducement of marriage and took her to Haryana and got a job for her in a factory where the appellant was working. The appellant established sexual relationship with the informant and continued to sexually exploit her and the informant became pregnant. Thereafter, the appellant deserted the informant and when the informant and her father went to the house of the petitioner, they were abused and assaulted by the appellant and his family members. The appellant refused to marry the informant.

Learned counsel for the appellant submits that the appellant has been falsely implicated in this case along with his family members by the informant in order to grab money. The father of the informant was working as *Munshi* with the uncle of the petitioner at *Varanasi* and he was removed from the work in April 2021 due to defalcation by him. The father of the informant has taken Rs. 1,00,000/- from the father of the appellant on false pretext about treatment of the informant and the present case has been filed in order to avoid making

payments. The learned counsel for the appellant further submits that the prosecution story is absurd, false and not believable. As per the F.I.R. the last incident took place on 23.07.2021 but F.I.R has been lodged on 01.11.2021, i.e, after lapse of more than three months and no plausible explanation has been given by the informant. The appellant is a married person having his wife and two children. So the story of inducement regarding marriage is not believable. The appellant has never had any relationship with the informant and has not taken her to *Haryana*. Learned counsel further submits that the informant is a married lady who has first solemnized marriage with one Mantu Paswan and after leaving Mantu Paswan, she solemnized another marriage with Ganesh Paswan prior to the institution of the present case. The informant has stated herself to be major and doctor has not found any evidence of recent intercourse and has not given any opinion about abortion as alleged. The appellant is in custody since 24.01.2022 and charge sheet has been submitted without any proper investigation. The appellant has got no criminal history.

Learned Spl. P.P. as well as learned counsel for the informant vehemently oppose the submission made on behalf of the appellant. Learned counsel for the informant submits that the

informant has supported her case even in her statement recorded under Section 164 Cr.P.C. The witnesses examined during the investigation have also supported the prosecution case. Learned counsel further submits that the informant has mentioned dates, regarding the time when she was taken to *Haryana* and kept there, in her statement recorded under Section 164 Cr.P.C. During medical examination, her age was assessed to be between 17-19 years.

Having regard to the facts and circumstances and submission made on behalf of the parties and further considering the possibility of false implication coupled with the period of custody of this appellant and his clean antecedent, the appellant above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-1st-cum-Special Judge, Kaimur at Bhabua in connection with I.A No. 01 of 2022 corresponding to SC/ST Reg. No. 21 of 2022 arising out of Bhabua (Mahila) P.S. Case No. 64 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close

relative of the appellant.

(ii) The appellant will remain present on each and every date fixed by the court below.

(iii) The appellant will not in any way contact either the victim or any of the witnesses and will not try to influence the trial.

(iv) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal stands allowed.

(Arun Kumar Jha, J)

Gautam/Daya

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.11.2022
Transmission Date	19.112022