

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4887 of 2021**

Arising Out of PS. Case No.-864 Year-2021 Thana- BANKA District- Banka

ROHIT YADAV Son of Late Radhe Yadav Resident of Village - Vijay Nagar ,
P.O.- Vijay Nagar, P.S.- Banka, Distt.- Banka.

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Laxmi Kumari Balmiki Das Resident of Village-Bijay Nagar,P.S-
Banka,District-Banka

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Sanjeev Kumar @Deepak Sahay.
For the Informant	:	Mr. Mahendra Prasad Verma.
For the Respondent/s	:	Mr.Binay Krishna.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 01-09-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the appellant and learned
Spl.P.P. for the State as well as learned counsel for the
informant.

The instant appellant has filed the instant appeal
against the order dated 04.12.2021 passed by the learned
Additional Sessions Judge – I, Banka, in G.R. No. 66 of 2021
arising out of Banka P.S. Case No. 864 of 2021 registered under
Sections 341, 342, 323, 504, 354, 354(A), 354(B) of the Indian
Penal Code and Section 3(i)(r)(s)w(i)(ii) of the SC & ST (POA)
Act whereby and whereunder the prayer for bail of the appellant



was rejected.

As per prosecution case, the informant was standing outside her house and at that time appellant came with his tractor and parked the same in front of the house of informant. It is further alleged that then the appellant came near the informant and forcibly caught her hand and when the informant resisted the same then the appellant lifted the informant and proceeded towards the river and where he put the informant on ground and tried to outrage her modesty. When the informant resisted the same and simultaneously raised alarm at which the appellant assaulted him and the informant was injured. Villagers came there and then the appellant managed to escape.

Learned counsel for the appellant submits that appellant is in custody since 17.11.2021. Appellant bears one criminal antecedent which is not of similar nature. Charge sheet has already been submitted in the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that from the perusal of the F.I.R. itself it is evident that the informant being a tenant residing with her family member. The appellant came to the house of informant in order to make enquiry about the matter and to get back the key



of his house in which some altercation took place between informant and appellant and informant has suppressed the real fact. In fact no such mishappening is being happened as alleged under Indian Penal Code nor the alleged offences under SC/ST Act. No case under SC/ST Act will be attributed in the present case. Except informant there is no eye witnesses to the said occurrence

The learned Spl.P.P. for the State as well as learned counsel on behalf of respondent vehemently opposes the prayer for bail of the appellant .

Considering the facts and circumstances of the case as well as period of custody, charge-sheet has already been submitted and there is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of the parties and also taking into consideration the material available on record, the order dated 04.12.2021 passed by learned Additional Sessions Judge – I, Banka is set aside and present appeal is allowed. The appellant is directed to be enlarged on bail in connection with G.R. No. 66 of 2021 arising out of Banka P.S. Case No. 864 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 the learned Additional



Sessions Judge – I, Banka, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Alok Kumar Pandey, J)

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