

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4949 of 2021**

Arising Out of PS. Case No.-387 Year-2021 Thana- GAIGHAT District- Muzaffarpur

Santosh Manjhi, S/o Late Phulo Manjhi, R/o Village- Rauna Kachahari, P.s. -
Gaighat, District - Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Babita Devi, W/o Rambabu Manjhi, R/o Village- Rauna Kachahari, P.s. -
Gaighat, District - Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Rajiv Kumar, Advocate
For the State	:	Mr.Sadanand Paswan, Spl.PP
For the respondent no.2	:	Mr.Ranjeet Patel, Advocate

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 13-10-2022

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

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 by
order dated 02.11.2021 passed by the learned Additional
Sessions Judge-III-cum-Special Judge SC/ST(POA) Act,
Muzaffarpur in connection with Gaighat P.S. Case No. 387 of
2021, registered for the alleged offences under Sections 328,



376 and 34 of the Indian Penal Code, Section 3 (2) (va) of the Scheduled Castes and Scheduled Tribes Act and Section 67 of the I.T. Act.

As per the prosecution case, the co-accused Pinkal Rai committed rape with the informant while she was unconscious after she was administered some intoxicating liquid by three lady co-accused persons. The allegation against this appellant is that he prepared a video on his mobile phone while the co-accused was committing rape with the informant.

The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. The appellant has nothing to do either with the three lady who administered intoxicating substance to the informant or the co-accused Pinkal Rai who committed rape. Learned counsel further submits that if the informant was unconscious, she could not be in a position to identify the person who prepared the video of her rape. Learned counsel further submits that the appellant is himself a person of Scheduled Caste category so there would be no application of any of the provisions of the SC/ST (POA) Act against the appellant. There is no allegation of rape against this appellant but only allegation against him is that he prepared video of rape so only Section 67 of the I.T. Act



is applicable against him. The appellant is in custody since 28.10.2021 and charge sheet has been submitted in this case.

Learned Spl.PP as well as learned counsel for the informant vehemently oppose the prayer for bail. Learned counsel for the informant submits that the appellant is ward member and despite being a public servant he indulged in such type of offence. However, learned counsel concedes that in her statement recorded under Section 164 Cr.P.C., the informant has not named this appellant that has prepared the video and rather she named co-accused Pinkal Rai for the said act.

Perused the records.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that the informant has not named this appellant in her statement recorded under Section 164 Cr.P.C. for any wrong doing and also considering his period of custody and submission of charge sheet, 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 Sessions Judge-III-cum-Special Judge SC/ST (POA) Act, Muzaffarpur in connection



with Gaighat P.S. Case No. 387 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, preferably one of the parents.

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

(iii) 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 is allowed.

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.10.2022
Transmission Date	14.10.2022

