

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.37 of 2022

Arising Out of PS. Case No.-117 Year-2021 Thana- BARGAINIA District- Sitamarhi

=====

MUKESH YADAV @ MUKESH RAY S/o Khobhari Ray Resident of
Village- Masaha Alam, P.S.- Bairgania, District- Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Uday Kumar

For the Respondent/s : Mr.Usha Kumari 1

=====

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 07-07-2022 The learned counsel for the appellant is directed to

remove all the defects pointed out by the office within one

month.

Heard learned counsel for the appellant as well as the
learned counsel for the informant.

This appeal has been preferred on behalf of the
appellant under Section 14 (A) (2) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, 1989 for setting
aside the order dated 29.11.2021 passed by the learned 6th
Additional Sessions Judge, Sitamarhi in ABP No. 2345 of
2021/173 of 2021, arising out of Bairgania P.S. Case No. 117 of
2021 registered for offence punishable under sections 366A,
380/34 of the Indian Penal Code and sections 3 (i) (r) (s) of the



SC/ST (POA) Act, whereby the prayer for anticipatory bail of the appellant has been rejected.

As per allegation, the accused persons on the point of gun kidnapped the minor daughter of the informant. On protest, they abused the family members of the informant by calling their caste name. It has also been mentioned that the intention of kidnapping of informant's daughter was for immoral act.

The learned counsel for the appellant has submitted that the victim, in her statement under Section 164 of the Code of Criminal Procedure, did not name the petitioner, but she named only Ramesh Ray and she has stated that Ramesh Ray attempted to outrage her modesty. The learned counsel has submitted further that the names of the other persons have been arrayed in this case merely because they are family members of co-accused Ramesh Ray.

On the other hand, the learned counsel for the informant has opposed the prayer for bail and submitted that all the accused persons are named in the FIR.

Considering the fact that the victim did not name other accused persons, she has named only Ramesh Ray and made allegation that Ramesh Ray attempted to outrage her modesty, no *prima facie* case is attracted against the other



co-accused persons.

Considering the above-mentioned facts and circumstances, the appeal is allowed and the impugned order dated 29.11.2021 passed by the learned 6th Additional Sessions Judge, Sitamarhi is set aside.

Accordingly, the appellant, in the event of arrest or surrender before the court below within four weeks from today, is directed to be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- with two sureties of the like amount each to the satisfaction of learned 6th Additional Sessions Judge, Sitamarhi in connection with Bairgania P.S. Case No. 117 of 2021.

Office shall ensure that all defects are removed by the petitioner within the stipulated time mentioned hereinabove, failing which, the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey, J)

Mahesh/Aditi

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

