

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.107 of 2022**

Arising Out of PS. Case No.-167 Year-2020 Thana- AAJAM NAGAR District- Katihar

Govind Sharma Son of Praful Sharma Resident of Village- Budholmnai,  
Panchayat Maheshpur, P.S.- Azamnagar, District- Katihar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kuleshwar Prasad Rai Son of Late Rajendra Rai Resident of Vill  
Budholmnai, Panchayat Maheshpur, P.S.-Azamnagar, Dist- Katihar.

... .. Respondent/s

**Appearance :**

|                      |   |                               |
|----------------------|---|-------------------------------|
| For the Appellant/s  | : | Mr. Md. Musowir, Advocate     |
| For the Respondent/s | : | Ms. Usha Kumari 1, Spl. PP    |
| For the Informant    | : | Mr. Indrajeet Kumar, Advocate |

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA**  
**ORAL ORDER**

3      04-08-2022                      1. Heard learned counsel for the appellant, learned  
Special P.P. for the State and learned counsel for the informant,  
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 06.12.2021 passed by the learned Additional  
District Judge-I-cum-Special Judge, SC/ST, Katihar in  
connection with Azamnagar P.S. Case No. 167 of 2020  
registered under Sections 366(A) and 120(B) of Indian Penal  
Code and Section 3(i)(r)(s)(w) 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 03.12.2021.

6. The allegation against the appellant is to kidnap the minor daughter of the informant for the purpose of illicit intercourse.

7. Learned counsel for the appellant submitted that the appellant was in friendly relations with the daughter of the informant. It is submitted that the victim, on medical examination, found in the age group of 20 to 22 years, as such, she was major at the time of the alleged occurrence. It is submitted that the victim completely denied the factum of kidnapping and sexual assault against this appellant. It is submitted that nothing surfaced from bare perusal of the F.I.R., which may, on its face, suggest that the act of appellant attract atrocities within the meaning of the Act. 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 already 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 the informant, while opposing the prayer of bail, fairly conceded that the victim girl denied the factum of kidnapping and sexual assault in her statement recorded u/s 164 of the Cr.P.C.

10. In view of the facts and circumstances, as mentioned above, as the occurrence of kidnapping and sexual assault is completely denied by the victim in her statement recorded u/s 164 of the Cr.P.C. coupled with the fact that victim was found major, in her medical examination, at the time of occurrence, let the appellant, above named, is directed to be released on bail in connection with Azamnagar P.S. Case No. 167 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District Judge-I-cum-Special Judge, SC/ST Prevention of Atrocities Act, Katihar/concerned Court, 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 Andula Devi, who is the maternal aunt of the appellant and deponent of the present appeal.”

11. Accordingly, impugned order dated 06.12.2021 is set aside.

12. Hence, appeal stands allowed.

**(Chandra Shekhar Jha, J)**

Ankit/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

