

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.499 of 2023

Arising Out of PS. Case No.-49 Year-2020 Thana- MAHILA PS District- Darbhanga

Binod Yadav @ Binod Kumar Yadav @ Binod Kumar Son Of Lal Yadav R/O
Village- Lumraul, P.S.- Alinagar, District- Darbhanga

... .. Appellant/s

Versus

1. The State of Bihar
2. Pushpa Kumari D/O Sikandar Ram R/O Village- Milkichak, P.S.-
Bahadurpur, District- Darbhanga

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pankaj Kumar Das, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

7 23-06-2023 Heard learned counsel for the appellant, learned
counsel appearing on behalf of the Respondent No. 2 as well as
learned Spl.P.P. for the State.

This is an appeal under Sections 14(A)(2) against
refusal of the prayer for regular bail by order dated 21.12.2022
passed by the learned Special Judge (POCSO Act), Darbhanga
in connection with Mahila P.S. Case No. 49 of 2020, SC/ST
G.R. No. 158 of 2020, F.I.R. dated 27.08.2020 registered under
Sections 376, 504/34 of the Indian Penal Code and Sections 3(i)
(r) 3(2)(va) of SC/ST Act.

Earlier the appellant has moved before this Hon'ble
Court in Cr. Appeal (SJ) No. 2058 of 2021 which was



withdrawn with a liberty to renew the prayer for bail of the appellant before the Court below. Pursuant to that order, appellant has moved before the learned Court below and the same was rejected vide order dated 15.02.2021. Thereafter, the appellant has again moved before this Hon'ble Trial Court in B.P. No. 125 of 2022 which is the impugned order in the present appeal.

According to the prosecution case, the informant/victim who is member of the schedule caste has love affair with the appellant who is her tuition teacher. It is further alleged that the appellant called the victim in his room and forcefully committed rape upon her and also threatened her of dire consequences.

Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated, in fact, the appellant and the victim was in love. He further submits that the statement of the victim girl was recorded under Section 164 of the Cr.P.C. in which she has accepted the fact that she was in love with the appellant. Thereafter, on the pretext of marriage the appellant has committed rape upon her. He further submits



that the medical report suggests that the age of the victim is between 17 to 19 years.

Vide order dated 16.03.2023 a report was called with regard to the stage of trial. Report of the learned Trial Court dated 18.03.2023 reveals that out of 15 charge sheet witnesses only 2 witnesses have been examined. Learned counsel for the appellant fairly submits that thereafter, two more witnesses have been examined meaning thereby that out of 15 charge sheet witnesses only 4 witnesses have been examined and the case is pending for the examination of rest of the witnesses.

Learned counsel for the appellant further submits that in view of the report of the learned Trial Court, the trial is not likely to be concluded in the near future. The appellant is in custody since 28.08.2020.

Learned counsel appearing on behalf of the Respondent No. 2 as well as learned Special Public Prosecutor for the State have vehemently opposed the prayer for bail of the appellant and submits that there is direct allegation against the appellant that he has committed rape upon the victim and the trial is in advance stage but they also fairly submits that only 4 witnesses have been examined till now.

Considering the facts and circumstances of the case



and the period of custody, let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge POCSO Act, Darbhanga in connection with Mahila P.S. Case No. 49 of 2020, with other following conditions:-

1. Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. 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.

3. And further condition that the court below shall verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.



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

(Rajesh Kumar Verma, J)

Vanisha/-

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

