

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.907 of 2023

Arising Out of PS. Case No.-279 Year-2021 Thana- KONCH District- Gaya

Awadhesh Yadav @ Abdhesh Yadav Son of Haridwar Yadav Resident of
Village- Belipar, P.S.- Konch, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Vijeta Khalkho Wife of Late Lourence Kujur Resident of Village- Mokatma,
P.S.- Chatra, District- Chatra (Jharkhand)

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Sharma, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 07-07-2023 Heard learned counsel for the appellant 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 07.01.2023 passed by the learned Exclusive Special Judge, SC/ST Gaya in connection with Konch P.S. Case No. 279 of 2021, F.I.R. dated 24.08.2021 registered under Section 376 of the Indian Penal Code and Section 3(2) (va) of the Scheduled Castes and Scheduled Tribes Act.

According to the prosecution case, on the pretext of providing job, this appellant handed over the victim to the co-accused, Sanjay Yadav and this co-accused kept her for three



months in a room and during that time he committed rape upon her.

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 appellant is the mediator of work provider with co-accused, namely, Sanjay Yadav (Labour Contractor). He further submits that it appears from the F.I.R. as well as 164 statement of the victim that the appellant has not committed any offence as alleged in the F.I.R. and the allegation of rape is attributed against the co-accused, namely, Sanjay Yadav. He further submits that the co-accused, namely, Sanjay Yadav against whom there is allegation of rape upon the victim has been granted bail by the Co-ordinate Bench of this Court vide order dated 29.09.2022 passed in Cr. App. (SJ) No. 407 of 2022. He further submits that the police, after investigation, submitted charge sheet under Section 363 of the Indian Penal Code and Section 3(2)(va) of SC/ST Prohibition Act against the appellant. The appellant is in custody since 04.11.2022.

Learned Special Public Prosecutor for the State has vehemently opposed the prayer for bail of the appellant.



Considering the facts and circumstances of the case, 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 Exclusive Special Judge SC/ST Act, Gaya in connection with Konch P.S. Case No. 279 of 2021, 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	
---	--	---	--

