

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1152 of 2023

Arising Out of PS. Case No.-24 Year-2022 Thana- MAHILA PS District- Gaya

Sudhir Kumar @ Sudhir Kumar Yadav Son Of Late Gajanand Prasad Yadav
@ Gaj Badan Prasad Yadav R/O Village- Saligrami, P.S.- Sahebpur Kamal,
District- Begusarai

... .. Appellant/s

Versus

1. The State of Bihar
2. Suman Kumari D/O Rajeshwar Rajak R/O Village- Dashrath Bigha, P.S.-
Rafiganj And District- Aurangabad Present Residing At Bhaluahi Kharkhura
Road No.-5, Gali No.2, P.S.- Delha, District- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manish Kumar No2, Advocate
For the State	:	Mr.Binay Krishna, Spl. P.P.
For Respondent No. 2	:	Mr. Virendra Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 19-04-2023

Heard learned counsel for the appellant, learned
Spl.PP for the State and learned counsel for the respondent no.
2-informant.

2. 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 09.02.2023 passed by the learned Exclusive Special
Judge SC/ST Act, Gaya in connection with Mahila P.S. Case
No. 24 of 2022, registered on 04.04.2022 for the alleged
offences under Sections 354(A), 354(C) and 354(D) of the
Indian Penal Code, Sections 67/67A of the I.T. Act and Sections



3 (i)(r)(s)(w) (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. This the 3rd attempt of the appellant to seek bail from this Court. Earlier the prayer for bail of the appellant was rejected vide order dated 13.10.2022 passed in Criminal Appeal (SJ) No. 1705 of 2022 and thereafter, the appellant again filed Criminal Appeal (SJ) No. 194 of 2023 which was dismissed as withdrawn vide order dated 25.01.2023.

4. As per the prosecution case, the appellant is a police official and he was investigating officer of Delha P.S. Case No. 141 of 2021. The informant of this case is also informant of Delha P.S. Case No. 141 of 2021 and allegation against the appellant is that he demanded sexual favour and money from the informant for making proper investigation in Delha P.S. Case No. 141 of 2021. The informant further alleged that he sent obscene video clip on whats-app number of the informant.

5. The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case by the informant in order to pressurize him to do the investigation as per her wishes. It is evident from the FIR itself that the informant was upset with the fact that the named



accused of Delha P.S. Case No. 141 of 2021 was not being arrested. The appellant found during investigation the informant had manipulated the facts and lodged a false case and when she came to know that the appellant has come to know the truth she started threatening him. Learned counsel further submits that purportedly the video clip was sent on 01.02.2022 but the FIR has been lodged on 04.04.2022. It shows the malicious intent of the informant. The appellant is an old man and asking for sexual favour from a 20 years old girl appears to be very strange and palpably false. Learned counsel further submits that the charges for offences levelled against the appellant are bailable in nature except offences under Section 67 of the I.T. Act and Section 3 (i) (r) (s) (w) (2) of SC/ST(POA) Act. The appellant is in custody since 05.04.2022 and charge sheet has been submitted in this case and there is no likelihood of trial being concluded in near future.

6. Learned Spl.PP as well as learned counsel for the informant/respondent no.2 vehemently oppose the prayer for bail. Learned counsel for the respondent no. 2 submits that the act of the appellant is quite reprehensible as he is a police officer and the informant is a lady of weaker section of the society. The mobile phone on which the appellant sent the video



clip was seized and sent for forensic examination and obscene video clip was found on it. The mobile phone of the informant was also seized. Learned counsel further submits that this fact has also been mentioned in paragraphs 4, 5 and 30 of the case diary. Learned counsel further submits that even in her statement recorded under Section 164 Cr.P.C. the informant has made specific allegation against the appellant.

7. Having regard to the submissions made hereinabove and considering the fact that the appellant is in custody for more than a year, also considering the submission of charge sheet and there is no likelihood of trial being concluded in near future, 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 Exclusive Special Judge, SC/ST, Gaya in connection with Mahila P.S. Case No. 24 of 2022, 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.
- (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.

8. Accordingly, the order dated 09.02.2023 passed in Mahila P.S. Case No. 24 of 2022 by learned Exclusive Special Judge SC/ST Act, Gaya is set aside and this appeal stands allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.04.2023
Transmission Date	20.04.2023

