

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1292 of 2023

Arising Out of PS. Case No.-33 Year-2021 Thana- MAHILA PS District- Gaya

Rahul Kumar @ Rahul Yadav @ Rahul Kumar Yadav Son Of Jitendra Yadav
@ Jitendra Kumar Resident of Village - Nawdiha, Jhurang, P.S. - Fatepur,
Distt. - Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Lalita Kumari D/O Sukhdev Chaudhary Resident Of Village - Naudiha, P.S.
- Fatehpur, Distt. - Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sumeet Kumar Singh,
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 26-04-2023

Heard Mr. Sumeet Kumar Singh, learned counsel for the appellant and Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

This is the second attempt wherein the appellant is renewing his prayer for bail by filing the instant appeal under Section 14(1) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer for bail vide order dated 08.04.2022 passed by learned Special Judge, POCSO-cum-A.D.J.-VI, Gaya in Mahila P.S. Case No. 33 of 2021 vide POCSO Case No. 14 of 2022 registered under Sections 376 and 376(3) of the Indian Penal Code and Section 3(1)(r)(s)(w), I of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Notice was issued to the respondent no.2, however,



the process server reported that the family members refused to receive the notice and said that she does not reside there.

Earlier, the prayer for bail of the appellant was rejected vide order dated 13.10.2022 passed in Cr. Appeal (SJ) No. 1631 of 2022 after taking into consideration the statement of the victim recorded under Section 164 Cr.PC. as also the age of the victim.

Learned counsel for the appellant submits that though earlier the prayer for bail of the appellant has been rejected on merit, nonetheless, it has come during the course of investigation that both the appellant and the victim were in love affair and this appellant frequently used to visit her house. On the alleged date of occurrence, while they were in compromising position, the appellant was caught by her family members and in order to save the prestige and the reputation of the family, the present case was instituted against the appellant. The aforesaid fact has also been corroborated by the re-statement of the victim and the statement of her *Bhabhi*. However, later on, being pressurized the victim gave a different version in her statement recorded under Section 164 Cr.PC.

Learned counsel for the appellant, however, drawn the attention of this Court towards the mandate of Section 35(2) of



the POCSO Act, which clearly stipulates that the Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence. He vehemently submits that the cognizance has already been taken on 23.03.2022. However, till date only one charge-sheet witness has been examined. He next submits that the appellant is in custody for over a period of one year and he is ready to give undertaking that he will fully cooperate in conclusion of the trial and will remain present on each and every date of trial till disposal of the case.

Learned Spl. P.P. for the State opposes the bail prayer of the appellant and submits that earlier the prayer for bail of the appellant has been rejected on merit and there is no overwhelming circumstances warranting reconsideration his prayer for bail.

Having considered the submissions made on behalf of the appellant and considering the fact that the charges have been framed on 08.04.2022, however, till date only one witness has been examined and there is no likelihood of the conclusion of the trial in near future coupled with the period of custody. let the appellant, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty thousand) with two sureties of the



like amount each to the satisfaction of learned Special Judge, POCSO-cum-A.D.J.-VI, Gaya in Mahila P.S. Case No. 33 of 2021 vide POCSO Case No. 14 of 2022, subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

- (i) The appellant will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

Accordingly, the impugned order dated 08.04.2022 passed by learned Special Judge, POCSO-cum-A.D.J.-VI, Gaya in Mahila P.S. Case No. 33 of 2021 vide POCSO Case No. 14 of 2022, is set aside and the appeal stands allowed.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27-04-2023
Transmission Date	27-04-2023

