

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1336 of 2023

Arising Out of PS. Case No.-10 Year-2021 Thana- MAHILA P.S. District- Sitamarhi

Vimlesh Kumar Singh @ Bimlesh Kumar Singh S/O Late Kishori Singh
Resident of Ward No.- 12, Bhitha Bazar, Sri Khandi Bitha, P.S.- Sursand,
District- Sitamarhi.

... .. Appellant/s

Versus

1. The State of Bihar
2. Smt. Sunita Kumari D/O Rameshwar Paswan, W/O Laxmeshwar Paswan
Resident of village- Amaghattha, ward No.- 09, P.S. and District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Dinkar Kumar, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, Spl.P.P.
For the Informant	:	Mr. Alok Kumar Alok, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 19-05-2023 Heard learned counsel for the appellant, learned
counsel appearing on behalf of the Informant 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 14.02.2023
passed by the learned Court 1st Additional Sessions Judge,
Sitamarhi in connection with Sitamarhi Mahila P.S. Case No. 10
of 2021, F.I.R. dated 03.07.2022 registered under Sections 341,
323, 376, 448, 504, 506/34 of the Indian Penal Code and
Sections 3(1)(r)(s) / 3(2)(va) of the Scheduled Castes and
Scheduled Tribes Act.

According to the prosecution case, the appellant along



with other accused persons entered into the house of the informant and committed rape upon her and also abused and assaulted her.

Learned counsel for the appellant submits that appellant has falsely been implicated in the present case. He further submits that earlier the informant has also filed a false and fabricated case against the appellant. He further submits the appellant has earlier granted provisional bail and thereafter, the bail application of the appellant was confirmed vide order dated 01.10.2021 in Cr. Appeal S.J. No. 3371 of 2021. He further submits that the present F.I.R. has been filed only to harass the appellant and the appellant has not committed any offence as alleged in the F.I.R. He further submits that the medical report of the victim also do not disclose any sexual assault against the victim. He further submits that the police, after investigation, submitted charge sheet against the appellant. The appellant is in custody since 21.12.2022.

Learned counsel appearing on behalf of the Informant as well as learned Special Public Prosecutor for the State have vehemently opposed the prayer for bail of the appellant and submit that the statement of the victim girl was recorded under Section 164 of the Cr.P.C. in which she has categorically stated



that the appellant has committed rape upon her.

Considering the facts and circumstances of the case, let the appellant, above named, be released on bail **after framing of charge** and on furnishing bail bond of Rs. 25,000/- (Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge, Sitamarhi in connection with Sitamarhi Mahila P.S. Case No. 10 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)

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