

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1153 of 2022

Arising Out of PS. Case No.-393 Year-2018 Thana- MINAPUR District- Muzaffarpur

NAND KISHORE SAHANI @ NAND KISHOR SAHANI S/o Janardhan
Sahani R/o village- Majlis Prannath @ Kharhar, Majhwar, P.S.- Minapur,
District- Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Sunita Devi Sikindra Paswan Resident of Village-Majhwar, P.S.-Minapur,
District-Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Hari Kishore Thakur, Advocate
For the Respondent/s	:	Mr.Binay Krishna, Spl PP.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 02-02-2023 Despite valid service of notice upon respondent no.2, i.e, the informant of the present case, there is no representation on her behalf, hence, this Court has no option but to proceed with the matter on merits.

Heard the learned counsel for the appellant and the learned Special Public Prosecutor for the State.

The present appeal has been filed against the order dated 24.11.2021 passed by the learned 6th Additional Sessions Judge-cum-Special Judge, POCSO Act, Muzaffarpur in connection with



Minapur P.S. Case No.393 of 2018, registered for the offences under Section 376/34 of the Indian Penal Code, Sections 8/9 of the POCSO Act and Section 3(xi) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby and whereunder the prayer of the appellant for grant of bail has been rejected.

The allegation as per the written report of the mother of the victim girl is that when her minor daughter had gone to purchase articles from a shop and was returning home after purchasing articles and had reached near Majhwar Chowk, the appellant and one another person, namely, Dharmendra Kumar had caught her, had taken her into a field and thereafter, they had committed rape upon her.

The learned counsel for the appellant has submitted that the appellant is innocent, he has been falsely implicated in the present case, he is having clean antecedent and he is languishing in custody since 28.07.2021. The learned counsel for the appellant has referred to the statement made



under Section 164 of the CrPC, by the victim girl, before the learned Magistrate to submit that the victim lady has categorically stated that the appellant had not raped her, but rape was committed by one another person, namely, Dharmendra Kumar, hence, it is submitted that the appellant is not having any complicity in the matter.

Per contra, the learned Special Public Prosecution for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, taking into account the materials available on record as also considering the statement made by the victim lady under Section 164 of the CrPC, before the learned Magistrate in which she has not alleged any untoward incident to have been committed by the appellant, I deem it fit and proper to admit the appellant to the privilege of bail.

Accordingly, the above named appellant is directed to be enlarged on bail on furnishing bail



bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned 6th Additional Sessions Judge-cum-Special Judge, POCSO Act, Muzaffarpur in connection with Minapur P.S. Case No.393 of 2018.

In view of the aforesaid, the impugned order dated 24.11.2021 passed by the learned 6th Additional Sessions Judge-cum-Special Judge, POCSO Act, Muzaffarpur in connection with Minapur P.S. Case No.393 of 2018, is set aside. The appeal stands allowed.

(Mohit Kumar Shah, J)

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