

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1731 of 2023

Arising Out of PS. Case No.-142 Year-2021 Thana- RAJEPUR District- East Champaran

Chulahi Kumar @ Shyam Kumar Son Of Mahadev Prasad @ Mahadev Bhagat Resident of Village - KashiPakadi, P.S. - Rajepur, Distt. - East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Kamli Devi Wife Of Ganesh Baitha Resident of Village - Bariyara, P.S. - Rajepur, Distt. - East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Vijay Shankar Shrivastava, Advocate
For the Informant	:	Mr. Prateek Tondon, Advocate
For the State	:	Mr. Sadanand Paswan, Special P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 3 07-07-2023 Heard learned counsel appearing for the appellant, learned counsel appearing on behalf of the respondent no. 2 and learned Special Public Prosecutor for the State.

This is an appeal under Sections 14(A)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for regular bail vide order dated 03.03.2023/04.03.2023 passed by the learned 7th Additional District & Sessions Judge-cum-Special Judge, POCSO Act, East Champaran, Motihari in connection with Rejepur P.S. Case No. 142 of 2021, F.I.R. dated 21.09.2021 registered under Sections 363, 354(B), 120(B)/34 of the Indian Penal Code, Sections 8 &



12 of the POCSO Act and Sections 3(i)(r)(s)(w)(i) of the SC/ST Act.

As per the prosecution case, the daughter of the informant was kidnapped by the four named accused persons namely Abhisek Kumar, Chulahi Kumar, Amit Kumar and Paltu Bhagat. The informant states that the occurrence was given effect to at the instance of the petitioner. His daughter who was a 15 years old minor was misbehaved with.

Learned counsel for the appellant submits that the appellant has clean antecedent and he has been falsely implicated in the present case. He further submits that from a bare perusal of the F.I.R. it transpires that there is no allegation of rape upon the daughter of the informant and after returning the daughter of the informant, the present F.I.R. was instituted in which not a whisper about a rape was mentioned in the F.I.R. and thereafter the statement of the victim was recorded under Section 164 of the Cr. P.C. on 04.12.2021, the date of F.I.R. on 21.09.2021 but the statement of the victim was recorded on 04.12.2021 in which the victim has developed a new story and stated therein that the appellant and other co-accused person have committed rape upon her. He further submits that the allegations alleged in the F.I.R. and the statement under Section



164 of the Cr. P.C. is false and fabricated and the appellant has not committed any offence as alleged in the F.I.R. and in the F.I.R. it was mentioned that co-accused Lakhindra Baitha is the master mind of the present occurrence has been granted bail by a Coordinate Bench of this Court vide order dated 18.05.2023 passed in Cr. Misc. No. 24341 of 2023 and the police after investigation submitted chargesheet against the appellant and the appellant is in custody since 14.02.2023.

Learned Special Public Prosecutor for the State as well as learned counsel appearing on behalf of the Informant have 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 7th Additional District & Sessions Judge-cum-Special Judge POCSO, East Champaran, Motihari in connection with Rajepur P.S. Case No. 142 of 2021, with the 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 witness, 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)

Ibrar//-

U		T	
---	--	---	--

