

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1709 of 2023

Arising Out of PS. Case No.-3 Year-2023 Thana- JAMALPUR District- Munger

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KUNDAN KUMAR SON OF SHANKAR SHARMA Resident of village -
Rampur Colony, P.S. - Jamalpur, Distt. - Munger

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Kumar

For the Respondent/s : Mr. Usha Kumari 1

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CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

3 18-05-2023 Though, notice has been issued to O.P, no.2, no one
has turned up to assist the Court.

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

The instant appeal has been filed by the appellant
against the order dated 1.3.2023 passed by learned Addl.
Sessions Judge-I-cum-Special Judge, SC/ST, Munger, whereby
the prayer for bail of the appellant in connection with Jamalpur
P.S. Case no. 03 of 2023 under Sections 376, 376(A), 376(B),
366, 366A, 493, 415 of the Indian Penal Code and sections 3(i)
(e)/4 of SC/ST Act (POA) was rejected.

As per FIR, allegation against the appellant is of
making physical relation with the victim/complainant on the
false pretext of solemnization of marriage.



It is submitted by learned counsel for the appellant that appellant has been falsely implicated in this case. It is further submitted vide para-7, 8 of the application that the informant of this case has earlier filed a complainant case bearing no. 1227(c) of 2022 against the appellant which is still pending and without withdrawing the said complaint filed the present case. The victim also gave a petition to S.P. Munger on 26.11.2022 that she and this appellant since last nine years in relationship and such assertion demolishes the earlier version made in the complaint petition regarding sexual relationship. From perusal of prosecution, it seems that there was consensual relation between the parties on the pretext of solemnization of marriage. The petitioner has not taken the cast name of the informant in public view as no offence is made out under the provisions of the SC/ST Act against him. The appellant has no intention to disgrace the image of the informant in public view. Moreover, the appellant has got no criminal antecedent and languishing in judicial custody since 15.2.2023.

The appeal for bail is opposed by learned Spl. P.P. for the State.

Having heard learned counsel for the parties and considering the facts and circumstances of the case, the Court is



inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 1.3.2023 passed in Jamalpur P.S. Case no. 03 of 2023 is hereby set aside.

The appellant is directed to be enlarged on bail in connection with Jamalpur P.S. Case no. 03 of 2023 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I-Cum-Special Judge, SC/ST, Munger.

(Sunil Kumar Panwar, J)

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