

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2248 of 2023

Arising Out of PS. Case No.-24 Year-2022 Thana- AAYAR District- Bhojpur

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1. Hari Narayan Singh Yadav @ Hari Narayan Singh s/o of Jaj Singh Resident of Village- Kusumaha, Police Station- Ayar, District- Bhojpur
 2. Mukesh Sah son of Bhola Sah Resident of Village- Kusumaha, Police Station- Ayar, District- Bhojpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Lakshmina Kumari Ravindr Ram Resident of Village- Kusumaha, P.S.- Ayar, District- Bhojpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Shiv Prasad Gupta, Advocate
For the State	:	Mr. Sadanand Paswan, Spl.P.P.
For the Respondent/s	:	Mr. Manoj Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 01-09-2023 Heard learned counsel for the appellants, learned counsel appearing on behalf of the Respondent No. 2 as well as learned Spl.P.P. for the State.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for regular bail by order dated 01.04.2023 passed by the learned Court of 6th Additional Sessions Judge cum Special Judge POCSO, Bhojpur Ara in connection with Ayar P.S. Case No. 24 of 2022 (arising out of Complaint Case No. 70 of 2021), F.I.R. dated 01.03.2022 registered under Sections 323, 342, 376(D) of the Indian Penal Code, Sections 4/8 of POCSO Act, Sections 3(c) (r) (s) of the Scheduled Castes



and Scheduled Tribes Act and Section 27 of the Arms Act.

3. According to the prosecution case, all the named accused persons have committed rape upon the victim and threatened her for dire consequences if she disclosed the matter to anyone.

4. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case. He further submits that from perusal of the F.I.R it appears that the date of occurrence as alleged in the F.I.R is 08.11.2021 but the Complaint Case No. 70 of 2021 was filed on 08.12.2021 after the delay of about one month and thereafter the present F.I.R was instituted under Section 156(3) of the Cr.P.C. bearing Ayar P.S. Case No. 24 of 2022 on 01.03.2022. He further submits that the allegation as alleged in the Complaint petition/F.I.R. is false and fabricated and the appellants have not committed any offences as alleged in the F.I.R. He further submits the date of occurrence is 08.11.2021 but the complainant / informant has not filed any petition before the competent authority / Court and after delay of about one month she has filed the Complaint Case No. 70 of 2021 which was registered as Ayar P.S Case No. 24 of 2022. He further submits that thereafter the statement of the victim was



recorded under Section 164 of the Cr.P.C. in which she has categorically stated that the appellants have committed rape upon her but the medical report of the victim does not supports the allegation as alleged in the F.I.R as well as 164 statement of the victim. He further submits that the police, after investigation, submitted charge sheet against the appellants. The appellants are in custody since 26.02. 2023.

5. Learned counsel appearing on behalf of the Respondent No. 2 as well as learned Special Public Prosecutor for the State have vehemently opposed the prayer for bail of the appellants and submits that there is direct and specific allegation against these appellants.

6. Considering the facts and circumstances of the case, let the appellants, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Court of 6th Additional Sessions Judge cum Special Judge POCSO, Bhojpur Ara in connection with Ayar P.S. Case No. 24 of 2022 (arising out of Complaint Case No. 70 of 2021), with other following conditions:-

i. appellants 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 have absence on two consecutive dates without sufficient reason, have bail bond shall be cancelled by the Court below.

ii. If the appellants tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedent of the appellants and in case at any stage it is found that the appellants have concealed have criminal antecedent, the court below shall take step for cancellation of bail bond of the appellants. 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.

7. Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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