

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2523 of 2023

Arising Out of PS. Case No.-302 Year-2022 Thana- GAYA MUFASIL District- Gaya

VIKASH KUMAR Son of Aditya Ram Resident of Village- amari, PS-
Mufassil, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Annu Kumari Daughter of Sri Jitan Paswan, Resident of Village- Amari, PS-
Muffasil, district- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arvind Kumar Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 08-09-2023 Learned counsel for the appellant submits that the notice was issued to the respondent No.2 but the same has been received by the sister-in-law (Bhabhi) of the respondent No.2 and they are living in the same house.

2. In view of the above, the notice received by the sister-in-law of respondent No.2 is deemed to be validly served.

3. Heard learned counsel for the appellant, learned counsel for respondent no.2 and learned Special Public Prosecutor for the State.

4. This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for regular bail of the appellant by order dated 29.04.2023 passed by the learned



Special Judge, SC/ST, Gaya, in connection with Muffasil P.S. Case No.302 of 2022 registered under Sections 341, 323, 354, 504 and 506/34 of the Indian Penal Code and Sections 3(i)(r)(s) (w), 3(2)(v-a) of the SC/ST Act, 1989.

5. As per prosecution case, as per F.I.R., 3-4 persons tried to outrage the modesty of informant. Thereafter F.I.R. named accused persons closed her mouth but somehow she escaped and came to her house. Then all the accused persons came there shouting her caste name and appellant Vikash Kumar assaulted by lathi to her brother.

6. Learned counsel for the appellant submits that appellant has clean antecedent and he has falsely been implicated in the present case. He further submits that bare perusal of F.I.R. it appears that F.I.R. in two parts, in first part, there is general and omnibus allegation against all the accused persons including the appellant and in second part, there is specific allegation against the appellant that he has tried to commit rape upon the victim alongwith other co-accused persons. He further submits that there is no acquisition of any assault or overt-act is attributed against the appellant and the appellant has not committed anything wrong with the informant/victim and the allegation as alleged in the F.I.R. is



false and fabricated and bare perusal of F.I.R. no offence is made out under the SC/ST Act against the appellant. He further submits that there is case and counter case between the parties and thereafter, both the parties have filed a joint compromise petition on 28.03.2023 before the learned Court below. He further submits that the police, after investigation, submitted the charge sheet against the appellant and the appellant is in custody since 06.02.2023.

7. The learned counsel appearing on behalf of the Respondent No.2 as well as learned Special Public Prosecutor have vehemently opposed the prayer for bail of the appellant and submits that there is direct and specific allegation against the appellant that he has tried to commit rape upon the victim.

8. Considering the aforesaid facts and circumstances, 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 the learned Special Judge, SC/ST, Gaya in connection with Muffasil P.S. Case No. 302 of 2022, subject to 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 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.

9. Accordingly, the impugned order dated 29.04.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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