

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2645 of 2023

Arising Out of PS. Case No.-1398 Year-2022 Thana- DANAPUR District- Patna

SHYAM KUMAR YADAV @ SHYAM KUMAR SON OF LATE
NAGESHWAR YADAV RESIDENT OF VILLAGE - CHOUDHARANA
ROAD, GURUDWARA GALI, P.S. - DANAPUR, DISTRICT - PATNA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. USHA DEVI WIFE OF CHHOTU CHAUDHARY RESIDENT OF
VILLAGE - JUMMA MAHZID, EMALITAL, P.S. - DANAPUR,
DISTRICT - PATNA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Parmeshwar Vishwakarma, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 04-08-2023 Heard learned counsel for the appellant and learned

Special P.P. for the State, on point of admission and on merit

also.

2. The appellant has preferred the present appeal

under Section 14A(2) of the Scheduled Castes and Scheduled

Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred

to as “the Act”) against the refusal of prayer for bail vide order

dated 20.02.2023 passed by the learned Additional District and

Sessions Judge-VII-cum-Exclusive Special Court (POC SO

Act), Patna in connection with Danapur P.S. Case No. 1398 of

2022 registered under Sections 363/366A of Indian Penal Code,

Sections 3(1)(xi)(xii) of SC/ST Act and Sections 8 and 12 of the



POCSO Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. Notice returned un-served, as addressee, changed their residence. Further, learned Spl. P.P. submitted that information also given to the informant, through local SHO, in terms of order dated 23.06.2023 of this Court, informant fails to join present proceedings.

5. The appellant is named in F.I.R. and is in custody since 08.12.2022.

6. The allegation against the appellant is to kidnap the minor daughter of the informant, aged about 14 years, for the purpose of illicit intercourse/marriage.

7. Learned counsel for the appellant submitted that appellant was in friendly terms with daughter of the informant, which was not accepted by her family members, causing false implication of the appellant, with the present case. It is submitted that victim, after recovery, while making her statement under Section 164 of the Cr.P.C., specifically submitted that she went with applicant out of her own will to visit nearby, Sonapur area and negate the allegation of kidnapping and sexual assault against this appellant. It is also



submitted that the present FIR was lodged with a delay of 05 days, without having any just explanation. It is submitted that from the face of FIR and even during course of investigation, nothing incriminating surfaced against this appellant, which may suggest that act of appellant can be said an atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellant is a man of clean antecedent and moreover investigation of this case is completed, for which, charge-sheet has already submitted, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in ***State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276.***

9. Learned Special P.P. for the State, while opposing prayer for bail, submitted that allegation is specific against this petitioner, as per FIR.

10. In view of the submissions, as made above and by taking note of statement of victim, as recorded under Section 164 of the Cr.P.C. negating completely allegation of kidnapping and sexual assault against this appellant coupled with the fact



that the charge-sheet has already submitted, where, appellant is in custody since 08.12.2022, who is a man of clean antecedent, let the appellant, above named, is directed to be released on bail in connection with Danapur P.S. Case No.1398 of 2022 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-VII-cum-Exclusive Special Court (POC SO Act), Patna/concerned court, subject to the condition as mentioned under Section 437(3) of the Cr.P.C.

11. Accordingly, impugned order dated 20.02.2023 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

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