

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2724 of 2023**

Arising Out of PS. Case No.-54 Year-2021 Thana- MAHILA P.S. District- Sheikhpura

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YOGENDRA KEWAT @ JOGINDAR KEWAT S/O CHARITRA KEWAT
R/O Village- Beldariya Chewara, PS. Chewara, Dist. Sheikhpura

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. MANJU DEVI W/O BHAJU MANJHI R/O Village- Beldariya Chewara PS.
Chewara, Dist. Sheikhpura

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Deovind Kumar Singh, Advocate
For the Respondent/s	:	Mr.Usha Kumari 1,Spl. P.P.
For the Informant	:	Sanjeev Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 18-08-2023 Heard learned counsel for the appellant, learned
counsel for respondent No.2 and learned Special Public
Prosecutor for the State.

2. 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 by
order dated 19.05.2023 passed by the learned Additional District
and Sessions Judge-I-cum-Special Judge, SC/ST Act,
Sheikhpura, in connection with SC/ST Case No.82 of 2021
arising out of Sheikhpura Mahila P.S.Case No.54 of 2021
registered under Sections 376,448,452,323,307 of the Indian
Penal Code and Sections 3(i)(r)(s)(w)(i)3(2)(va) of SC/ST



(POA)Act.

3. It is alleged against the appellant that he entered into the house of the informant and forcibly committed rape upon her and when the informant resisted, the appellant, out of anger, entered his hand into her private part, due to which, her private part was teared and she became unconscious.

4. Learned counsel for the appellant submits that the appellant has clean antecedent and he has falsely been implicated in the present case. Further submits that from a bare perusal of the FIR it appears that the date of occurrence as alleged in the FIR is 16.10.2021 but the present FIR was instituted on 26.10.2021 after delay of 10 days without giving any explanation of delay. The allegation as alleged in the FIR is false and fabricated and the appellant has not committed any offence as alleged in the FIR and the medical report of the victim also does not support the allegation as alleged in the FIR and during investigation the place of occurrence is also disbelieved by the prosecution and the police, after investigation, submitted the charge sheet against the appellant and the appellant is in custody since 06.05.2023.

5. The learned counsel for the respondent No.2 and learned Special Public Prosecutor for the State, on the other



hand, have vehemently opposed the prayer for bail of the appellant and submits that the statement of the victim under Section 164 Cr.P.C. was recorded in which she has categorically stated that the appellant has committed rape upon her but in her 161 Cr.P.C. statement, the informant named another person and in the FIR she has also stated that another person was involved in the present crime in question.

6. 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 Additional District and Sessions Judge-I-cum-Special Judge, SC/ST Act, Sheikhpura, in connection with SC/ST Case No.82 of 2021 arising out of Sheikhpura Mahila P.S.Case No.54 of 2021, subject to the following conditions:-

I. 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.

II. 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.

III. 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.

7. Accordingly, the impugned order dated 19.05.2023 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

Nitesh/-

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