

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2939 of 2023

Arising Out of PS. Case No.-346 Year-2022 Thana- ROSHANGANJ District- Gaya

ASHOK PRASAD @ LATLU PRASAD Son of Late Dev Charan Mahto
Resident of Village - Ajamgarh, P.S.- Raushanganj, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kanchan Kumari Daughter of Sri Rikyasan Resident of Village - Azamgarh,
Tola - Gangta, P.S.- Raushanganj, District - Gaya.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Md. Javed Jafar Khan, Adv.
For the Respondent/s : Mr. Sadanand Paswan, S.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

- 4 15-09-2023 1. Heard learned counsel for the appellant, learned
counsel for the informant and learned Special P.P. for the State.
2. This is an appeal under Section 14 (A)(ii) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 2016 (hereinafter referred to as the “SC/ST
Act”) against the refusal of prayer for regular bail vide order
dated 29.05.2023 passed by the learned Exclusive Special
Judge, SC/ST Act, Gaya in Roshanganj P.S. Case No.346 of
2022, F.I.R. dated 26.12.2022 registered under Sections 341,
323, 376, 504, 506 & 120(B) of the Indian Penal Code and
Section 3(i)(r) (s) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act.



3. According to FIR, the petitioner along with other co- accused on the point of weapon tried to commit rape with the respondent no.2/informant and also torn her clothes and when the victim raised hulla, the people of the vicinity assembled then the accused persons fled away.

4. Learned counsel for the appellant submits that the appellant has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the appellant has not committed any offence as alleged in the F.I.R. He further submits that the statement of the victim was recorded under Section 164 Cr.P.C., in which, she has not disclosed the date and time of the alleged occurrence and apart from that from perusal of the 164 Cr.P.C statement of the victim, it appears that the appellant has only tried to commit rape upon the victim and in view of the aforesaid, no case under Section 376 IPC is made out against the appellant and the police, after investigation, submitted charge sheet against the appellant and the appellant is in custody since 25.01.2023.

5. Learned counsel for the informant and learned Spl. P.P. for the State have vehemently opposed the prayer for bail of the appellant and submits that there is direct allegation



against the appellant that he has tried to commit rape upon the victim but fairly submits that in her 164 Cr.P.C. statement, she has not disclosed the date and time of the alleged occurrence.

6. Considering the facts and circumstances of the case, let the appellant, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge SC/ST Act, Gaya in connection with Roshanganj P.S. Case No.346/2022, with 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 bond 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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