

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.2957 of 2023**

Arising Out of PS. Case No.-48 Year-2022 Thana- BUXAR COMPLAINT CASE District-  
Buxar

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DAYA SHANKAR YADAV @ DAYA SHANKAR SINGH @ TINKI  
YADAV Son of Kalika Yadav R/o Village - Chottaki Basauliu, P.S.- Buxar (I),  
District - Buxar.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kiran Devi Daughter of Late Sipahi Ram Resident of Village - Surandha,  
P.S.- Dumraon, District - Buxar

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Ajit Kumar  
For the Respondent/s : Mr. Sadanand Paswan

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN**  
**ORAL ORDER**

2      16-08-2023                      Heard learned counsel for the appellant and learned  
  
Special Public Prosecutor for the State assisted by learned counsel  
  
for the respondent no.2.

2. This is an appeal under Section 14-A(2) of the  
Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)  
Act, 1989 (hereinafter in short referred to as the 'SC/ST Act'),  
against the refusal of prayer of anticipatory bail vide order dated  
26.05.2023 passed by learned A.D.J.-I-Cum-Spl. Judge SC/ST  
(POA) Act and children court, Buxar in connection with SC & ST  
Complaint Case No. 48(C) of 2022, registered under Sections 376,  
354(A), 506, 504 and 323 of the Indian Penal Code and Section  
3(i)(r) of the Scheduled Castes and Scheduled Tribes (Prevention  
of Atrocities) Act.



3. As per the prosecution case, appellant is said to have raped with the complainant. When she was going to instituted case against the appellant then he told her not to institute a case as he is ready to marry her. When she got pregnant from the appellant, thereafter she disclosed this fact to him and his family members and requested for performing marriage then all the accused persons including the appellant assaulted and abused her by taking caste name and refused to marry her.

4. It is submitted by learned counsel for the appellant that the appellant have no concern with the aforesaid occurrence. The occurrence took place on 10.01.2022 but the present complainant lodged on 24.08.2022 after a delay of 14 days which creates serious doubt about the case. The complainant is already a married woman having three children and the question of marrying a married woman does not arise. Appellant has got no criminal antecedent as mentioned in para-3 of memo of appeal.

5. Learned Spl. PP for the State along with learned counsel for the respondent no.2 opposes the prayer for bail and submits that the appellant abuse the respondent no.2/informant by taking caste name and the learned Court below took cognizance against the appellant. Therefore, the present appeal is not maintainable. Relying upon the judgment of Hon'ble Apex Court passed in the case of *Bachu Das Vs. State of Uttarakhand and*



*another reported in (2020) 10 SCC 710* whereby the Court held that Anticipatory bail of offences under Sections of SC/ST (POA) is not maintainable after the cognizance has been taken by learned Court below and hence Anticipatory bail of complaint case of SC/ST Act not maintainable.

6. In the facts and circumstances of the case and the judgment of Hon'ble Apex Court in the case of *Bachu Das (supra)*, I am not inclined to enlarge the appellant on bail in connection with SC & ST Complaint Case No. 48(C) of 2022.

7. Accordingly, this appeal is not maintainable.

**(Anjani Kumar Sharan, J)**

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