

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2953 of 2023**

Arising Out of PS. Case No.-7 Year-2023 Thana- SC/ST District- Gopalganj

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Mithun Kumar Yadav @ Mithun Kumar Son Of Rajesh Kumar Yadav @
Rajesh Yadav Resident Of Village- Lakhana, P.S- Uchakagaon, District-
Gopalganj

... .. Appellant/s

Versus

1. The State of Bihar
2. Meena Devi Wife Of Nagendra Ram Resident Of Village- Ojhawaliya, P.S-
Uchakagon, District- Gopalganj

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Lokesh Kumar Singh, Advocate
For the Respondent/s : Mr.Binay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 08-09-2023 Heard learned counsel for the appellant, learned
counsel for the respondent No.2 and learned Spl.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 25.05.2023 passed by the learned 3rd Additional Sessions
Judge -cum-Special Judge, SC/ST Act, Gopalganj in Gopalganj
SC/ST P.S.Case No.07 of 2023, F.I.R. dated 24.02.2023
registered under Sections 363,366(A) of the Indian Penal Code
and Sections 3(2)(va) of the Scheduled Castes and Scheduled



Tribes (Prevention of Atrocities) Act but the police, after investigation, submitted chargesheet under Secitons 366(A), 376 of IPC, Section 3(2)(va) of the SC/ST Act and Sections 4/6 of the POCSO Act.

3. The prosecution case, in short, is that on 21.02.2023, the appellant is alleged to have kidnapped the daughter (the victim) aged about 17 years of the informant on the point of pistol.

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 21.02.2023 but the present FIR has been instituted on 24.02.2023 after delay of three days without giving any explanation of delay and the victim was recovered and her statement under Section 164 Cr.P.C. was recorded in which she has categorically stated that she has called the appellant and she wants to marry with the appellant and on pretext of marriage the appellant has committed sexual assault with her and she has also stated that she wants to marry with the appellant and she wants to live with the appellant and the medical report of the victim does not support the allegation as alleged in the FIR as well as



164 Cr.P.C. statement of the victim. Further submits that as per information, the father of the victim has performed the marriage of the victim and now she is living happily in her matrimonial house. Further submits that the police, after investigation, submitted chargesheet against the appellant and the appellant is in custody since 27.02.2023.

5. Learned Spl. P.P. for the State and learned counsel for the informant, on the other hand, have vehemently opposed the prayer for bail of the appellant and submits that there is specific allegation against the appellant and date of birth of the victim suggests that she was minor on the date of 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) each with two sureties of the like amount each to the satisfaction of learned 3rd Additional Sessions Judge -cum-Special Judge, SC/ST Act, Gopalganj in connection with Gopalganj SC/ST P.S.Case No.07 of 2023, with 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/her absence on two consecutive dates without sufficient



reason, his/her 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 is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

Nitesh/-

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