

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2840 of 2022**

Arising Out of PS. Case No.-77 Year-2021 Thana- MAHILA P.S. District- Muzaffarpur

Vikash Rai @ Vikash Kumar Son of Lakhindra Ray R/V- Bhatauna P.S-
Karja, Dist- Muzaffarpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Nirmala Devi Wife of Dharmendra Choudhary R/V- Motipur F C I Godown,
P.S- Motipur , Dist- Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Sanjay Kumar @ S.K., Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl.PP
For the Informant	:	None

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 16-08-2023 1. Heard learned counsel for the appellant, learned
Spl. P.P. for the State and no one appears on behalf of the
informant.

2. This is an appeal under Section 14-A(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST
Act”) against the refusal of prayer for **anticipatory bail** *vide*
order dated 13.07.2022 in A.B.P. No. 1672 of 2022 passed by
the learned 1st Additional Sessions Judge-cum-Special Judge
S.C./S.T. (POA) Act, Muzaffarpur in connection with Mahila
P.S. Case No. 77 of 2021 registered for the offences punishable
under Sections 341, 342, 376(D) and 34 of the Indian Penal



Code as well as Sections 3(i)(w)(i) of the SC/ST Act.

3. Learned counsel for the appellant submits that the appellant is a person with clean antecedent and the informant alleges that she had gone to attend nature's call when the accused persons, including the appellant, along with one unknown person came and took her in the house of Jagdish Shah and committed gang rape with her.

4. Learned counsel for the appellant submits that no doubt the allegation appears to be serious but when the injury report of the informant is perused it would manifest that no injury was found, it is next submitted that if the informant was gang raped then definitely there had to be some sign of violence being committed on the body of the informant but then that is not the case. The learned counsel for the appellant next draws the attention of the Court to paragraph nos. 16, 38, 39, 40, 41 and 42 of the case diary to submit that the witnesses in one voice have stated that this informant is in habit of filing false cases against innocent persons, it is next submitted that at paragraph nos. 41 and 42, the statement of women namely Renu and Shobha have been recorded and they have also not supported the case of the prosecution rather have stated that informant is in habit of threatening people of implicating them



in false cases.

5. No one appears on behalf of the informant.

6. Learned Spl. P.P. for the State opposes the prayer for anticipatory bail of the appellant but is not in a position to rebut the submission of the learned counsel for the appellant and fairly submits that paragraph nos.20 and 52 of the case diary, which contains the injury report, does not support the allegations as alleged by the informant i.e. does not testify rape or gang rape.

7. In view of the submissions made by the learned counsel for the appellant, the order dated 13.07.2022 in A.B.P. No. 1672 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Muzaffarpur in connection with Mahila P.S. Case No. 77 of 2021 is hereby set aside and the appellant above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Mahila P.S. Case No. 77 of 2021 subject to the conditions as laid down under Section 438 (2) of



the Cr.P.C.

8. Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

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