

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3106 of 2023**

Arising Out of PS. Case No.-399 Year-2022 Thana- VAISHALI District- Vaishali

Manish Kumar S/O Late Sant Lal Paswan R/O Village- Manganpur, P.S.
Bhagwanpur, Dist. Vaishali

... .. Appellant/s

Versus

1. The State of Bihar
2. Rita Devi W/O Ranjit Paswan R/O Village- Ufraul, P.S. Belsar O.P., Dist.
Vaishali

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Subhash Kumar, Advocate
For the Respondent/s : Mr. Sadanand Paswan, APP

**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER**

3 08-09-2023 Learned counsel for the appellant submits that the appellant also belonged to the same community and hence there is no need to issue notice to the Informant.

2. Heard learned counsel appearing for the appellant and learned Special Public Prosecutor for the State.

3. This is an appeal under Sections 14(A)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for regular bail vide order dated 06.06.2023 passed by the learned I/C Special Judge SC/ST, Vaishali at Hajipur in connection with Vaishali (Belsar O.P.) P.S. Case No. 399 of 2022, F.I.R. dated 09.10.2022 registered under



Sections 341, 323, 376(D), 504, 506/34 of the Indian Penal Code and Sections 3(1)(r) 3(1) (s) (w) (i) (ii), 3(2)(Va) of the SC/ST Act.

4. Allegation against the appellant is that he has committed rape upon the informant and make video and in grab of that he repeatedly sexual assault to the informant.

5. Learned counsel for the appellant submits that the appellant has clean antecedent and he has been falsely 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 anything wrong as alleged in the F.I.R. and as per allegation the petitioner and other co-accused persons have committed rape upon the informant but the police after investigation submitted final form in favour of the co-accused namely Deepak Kumar on 18.05.2023 and the victim has refused for her medical examination and thereafter a joint compromise petition has been filed before the concerned court and the police after investigation submitted chargesheet against the appellant and the appellant is in custody since 12.05.2023.

6. Learned Special Public Prosecutor for the State, on the other hand, has vehemently opposed the prayer for bail of the appellant and submits that the statement of the victim under



Section 164 of the Cr. P.C. was recorded in which she has categorically stated that the appellant and other co-accused persons have committed rape upon her but fairly submits on the basis of material available on record as well as case diary that she has refused for her medical examination and police has submitted final form in favour of co-accused person namely Deepak Kumar.

7. 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/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned I/C Special Judge SC/ST, Vaishali at Hajipur in connection with Vaishali (Belsar O.P.) P.S. Case No. 399 of 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 witness, 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 bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

8. Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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