

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3154 of 2023**

Arising Out of PS. Case No.-12 Year-2022 Thana- MAHILA P.S. District- Saran

SHUBHAM KUMAR @ SHUBHAM KUMAR SAH SON OF BIRJU SAH
RESIDENT OF VILLAGE- KANAKPUR ISMAILA, P.S. DIGHWARA,
DISTRICT- CHAPRA, SARAN

... .. Appellant/s

Versus

1. The State of Bihar
2. KAJAL KUMARI D/O KAMAKHYA SHARMA RESIDENT OF
VILLAGE- KANAKPUR, P.S. DIGHWARA, DISTRICT- SARAN

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Atul Shankar, Adv.
For the Respondent/s : Mrs.Usha Kumari 1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 11-10-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. In compliance of the order of this Court, informant was
informed about her appearance in this appeal by the learned
Spl.P.P. for the State but nobody appears on her behalf.

3. This is an appeal under section 14(A) 2 of the Scheduled
Castes and Scheduled Tribes (Prevention of Atrocities) Act
(hereinafter in short referred to as the 'SC/ST Act') against the
refusal of prayer for anticipatory bail vide order dated
18.04.2023, passed by learned 3rd Additional Sessions Judge-
cum- Special Judge, SC/ST/MP/MLA, Saran, in connection
with Mahila P.S. Case No.12 of 2022, registered under sections



406, 420, 366, 376 and 120(B) of the IPC and sections 3(i)(x) (xi)(xii)(xv) of the SC/ST Act and section 67 of the I.T. Act.

4. As per the F.I.R., the appellant is said to have eloped the O.P. No.2 from her house and performed marriage and used to make physical relation with her. He also prepared a video and is threatening the complainant to make it viral. When the complainant and her family enquired about the same, they chased the O.P. No.2 abusing her with caste name.

5. It is submitted by learned counsel for the appellant that the appellant is innocent and has not committed any offence. No such occurrence in the manner as alleged has ever taken place. He has been falsely implicated in this case with ulterior motive. The alleged occurrence is said to have taken place on 28.03.2021 and the complaint was lodged on 05.01.2022 i.e. after delay of ten months without giving any plausible explanation regarding such delay, which itself creates doubt about the prosecution case. It is further submitted that the victim is a major, which is evident from para-7 of the case diary and at para-19 of the case diary, the victim has denied to undergo medical examination and to give her statement u/s 164 Cr.P.C. It is further submitted that no offence under the SC/ST Act is made out against the appellant in view of the judgment of the



Apex Court in the case of *Sunil Kumar Rai & Ors. V/s. The State of Bihar* as reported in *2022 SCC Online SC 232*, whereby the Apex Court has held that Lohar community does not come in the purview of the SC/ST Act. Appellant has no criminal antecedent.

6. Learned Spl. PP for the State opposed the prayer for bail.

7. Considering the facts and circumstances of the case and that there is no specific overt act against the appellant, let the appellant named above, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs.25,000/- (Rs. Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned 3rd Additional Sessions Judge-cum- Special Judge, SC/ST/MP/MLA, Saran, in connection with Mahila P.S. Case No.12 of 2022, subject to the condition as laid down under section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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