

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.706 of 2021**

Arising Out of PS. Case No.-48 Year-2020 Thana- MAHILA P.S. District- Siwan

Nipu Kumar @ Nippu Kumar @ Ashish Kumar S/O Late Harendra Singh
R/O Vill Bartwaliya Ps Panchrukhi Dist Siwan

... .. Appellant/s

Versus

1. The State of Bihar
2. Kanti Kumari Daughter of Sakaldeep Gaur R/o vill- Bartwaliya, P.O.-Itawa ,
P.S.- Panchurkhi, Dist- Siwan

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Anil Chandra
For the State	:	Ms. Usha Kumari No.1
For the Respondent No. 2:	:	Mr. Suresh Prasad Sharma

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

5 06-12-2023 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and 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 05.11.2020 passed by learned Special Judge
POCSO, Siwan, in connection with Siwan (Mahila) P.S. Case
No. 48 of 2020 registered under Sections 376, 511 of the Indian
Penal Code and Section 3(2)(vr) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act and Section



6(XII) of the POCSO Act.

3. As per the prosecution case, allegation against the appellant is that he tried to commit rape upon the informant.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. There is no allegation of slating the informant in the specific name of his caste. Hence, no offence under SC/ST Act is made out against the appellant. He submits that the date of occurrence was 23.07.2020 and the complaint was filed on 05.08.2020, after lapse of about 12 days and there is no explanation regarding the delay, which creates serious doubt on the prosecution case. He further submits that appellants also belongs to the Scheduled Caste, therefore, no offence under SC/ST is made out against the appellant. Appellant has got no antecedent as mentioned in para-3 of memo of the appeal.

5. Learned Spl. PP for the State as well as learned counsel for the respondent no. 2 opposed the prayer for anticipatory bail and submitted that para-4, 7, 8, 11 and 12 of the case diary have supported the prosecution case.

6. Considering the facts and circumstances of the case, arguments of the parties and from perusal of the records, it appears that there is delay of 12 days in lodging the present



F.I.R., let the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge POCSO, Siwan, in connection with Siwan (Mahila) P.S. Case No. 48 of 2020, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

anand/-

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