

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3569 of 2023**

Arising Out of PS. Case No.-1 Year-2021 Thana- PHULWARIA District- Begusarai

Md. Chhotu @ Md. Chhote, S/O Md. Ishrafil, R/O Village- Fulwaria-1,
Ganjpar, Ward No. 12, P.S- Fulwaria, Distt.- Begusarai.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raj Kumar Sinha, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 06-10-2023

Heard learned counsel for the appellant and learned
Spl.PP for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail by order dated 27.05.2023 passed by learned Exclusive Special Judge, SC/ST(POA) Act, Begusarai in connection with Fulwaria P.S. Case No. 1 of 2021 registered for the alleged offences under Sections 376, 448, 504 of the Indian Penal Code and Sections 3(1)(r)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per the prosecution case, while the informant was alone in her house, the appellant entered into her house in



the night and committed rape with her on gunpoint.

4. The learned counsel for the appellant submits that this is the second attempt of the appellant to seek bail from this Court as his prayer for bail was earlier rejected vide judgment dated 10.11.2022 passed in Cr. Appeal (SJ) No.638 of 2022. At the time of rejection of prayer of bail, the learned trial court was directed to conclude the trial within a period of six months and at the same time, the appellant was given liberty to renew his prayer, if the trial was not concluded within the stipulated period. The learned counsel further submits that out of total eight prosecution witnesses, only three witnesses have been examined so far and there is no likelihood of conclusion of trial in near future. The learned counsel further submits that appellant is in custody since 29.01.2021. The learned counsel further submits that medical report shows no rape has been committed as no sign of sexual assault has been found on the person of the informant and in the given facts and circumstances, only a case of attempt to rape could be made out.

5. Learned Special PP opposes the submission made on behalf of the appellant. The learned Spl.P.P. submits that the appellant committed rape with the informant while she was alone in her house. The statement of the informant was recorded



under Section 164 Cr.P.C. wherein she has supported her case about rape committed by the appellant.

6. Pursuant to the earlier order dated 01.09.2023, a report dated 08.09.2023 has been received from the learned trial court. In its report, the learned trial court has submitted that three prosecution witnesses have been examined in this case out of total eight witnesses named in the charge sheet. The examination of the victim and other witnesses have not been done. The learned trial court has further submitted that the court is having pendency of more than two thousand cases and has sought time of one year for completion of trial.

7. Having regard to the facts and circumstances of the case and submissions made on behalf of the parties and considering the specific nature of allegation, mere non-conclusion of trial would not entitle the appellant for grant of bail in such case. Hence, his prayer for bail is rejected.

8. However, report of the learned trial court is quite disturbing and it seems the learned trial court has been shirking its responsibilities and mandate of law under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 when it further sought time of one year for conclusion of trial.



9. The learned trial court is directed to take up the matter on day to day basis and conclude the trial within next three months without fail, otherwise, adverse orders may entail.

10. At the same time, the Superintendent of Police, Begusarai is directed to ensure the presence of remaining prosecution witnesses on the dates fixed before the learned trial court. In case, the Superintendent of Police fails to produce the witnesses on the dates fixed, he will be called before this Court to explain his conduct.

11. With the aforesaid observations and directions, this appeal is dismissed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	07.10.2023
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