

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3236 of 2022

Arising Out of PS. Case No.-367 Year-2022 Thana- BIHAR District- Nalanda

RADHE SHYAM KUMAR VERMA S/O RAJESH KUMAR VERMA
Resident of Village- Sakroudha, P.S.- Noorsarai, District- Nalanda.

... .. Appellant/s

Versus

1. The State of Bihar
2. GAYATRI DEVI D/O LATE RAMESH PRASAD Resident of Village-
Mashadpur, behind Pawan Cold Storage, P.S.- Bihar, District- Nalanda.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sudish Kumar, Advocate
For the Respondent/s : Ms.Usha Kumari 1, App

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

6 20-03-2023 Heard learned counsel for the appellant and the
learned APP for the State.

No one appears on behalf of respondent no.2 despite the fact that notice sent to her has been received by her mother and at the time of serving of the notice, respondent no.2 was jointly residing with her mother, as such, service of notice deemed to be validly served upon respondent no.2 and in this regard, a supplementary affidavit with regard to jointness of respondent no.2 with her mother has also been filed on behalf of the appellant which shows that the respondent no. 2 is not interested in appearing in this case.

The instant criminal appeal has been filed under Section 14(A)(2) of the Scheduled Castes and the Scheduled



Tribes (Prevention of Atrocities) Act, 1989 against the order dated 25.08.2022 passed by the learned 3rd Additional Sessions Judge-cum-Special Judge (SC/ST Act), Bihar Sharif (Nalanda) in connection with Bihar Police Station Case No.367 of 2022, registered for the offences punishable under Sections 420, 354(C), 34 of the Indian Penal Code, Section 67(A) of the I.T. Act and Sections 3(1)(r),(s),(u),(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act by which the appellant's prayer for bail was rejected.

The main submissions advanced by learned counsel for the appellant are that appellant has fair and clean antecedent and he has been languishing in jail since 25.07.2022 and the maximum punishment for the alleged offence punishable under Section 67(A) of the I.T. Act is five years against which the appellant has already spent about eight months in jail and the investigation was not made in respect of making the alleged photos viral and there is no any documentary evidence with regard to payment of Rs.1,50,000/- by the informant to the appellant and the case of this appellant is at the initial stage and running for framing of charge and the court concerned is vacant. Further submission is that in fact there was friendship and love affair between the victim and the appellant and during the



investigation, the supervising authority passed some certain directions to investigating officer to investigate the matter in respect of making the alleged photographs viral as well as payment of the alleged amount but on the said points, no investigation was made and accordingly there is no any material evidence to support the main allegations of the FIR.

Learned APP appearing for the State has opposed the bail prayer of the appellant.

Considering the above submissions and mainly the custody period of the appellant and also the fact that the prosecution has not brought any material or evidence to substantiate the main allegation of the FIR, in my opinion, it is a fit case for bail to the appellant. Hence, order impugned is hereby set aside and appeal stands allowed and the appellant is directed to be released on bail on furnishing of bail bond of Rs.10,000/- with two sureties of like amount each to the satisfaction of the concerned Court, in connection with Bihar Police Station Case No.367 of 2022.

(Shailendra Singh, J)

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