

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3293 of 2022

Arising Out of PS. Case No.-106 Year-2019 Thana- GAYA MUFASIL District- Gaya

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Bugesh Singh @ Bagesh Parsad S/o Ramashis Parsad R/o Sohaipur, P.S.-
Muffasil, Distt- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar.
2. Manju Devi W/o Prem Kumar Sharma R/o Village- Sohaipur, P.S.- Muffasil,
Distt- Gaya.

... .. Respondent/s

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Appearance:

For the Appellant/s : Mr. S. Jamil Akhtar, Advocate
For the Respondent/s : Mr. Binay Krishna, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 24-03-2023 The learned counsel for the appellant is permitted to
remove the defect no. 1 in the course of the day.

Let the other defects, if any, pointed out by the office be
removed within four weeks from the date of this order, failing
which the matter be listed again under the appropriate heading
for necessary action.

Learned counsel Mr. S. Jamil Akhtar appearing for the
appellant and learned APP Mr. Binay Krishna appearing for the
State are present and they are heard.

The instant appeal has been filed under Section 14(A)(2)
of the SC/ST Act against the order dated 06.08.2022 passed by
the Court of Exclusive Special Judge, SC/ST Act, Gaya in
connection with Muffasil PS case no. 106 of 2019 registered for

the offences punishable under Section 376 (D) of Indian Penal Code and Section 3(2)(v) of SC/ST Act by which the appellant's prayer for bail was rejected.

The main submissions advanced by learned counsel for the appellant are that the appellant does not have any criminal antecedent, in the FIR altogether six persons including the appellant are named as accused and they are alleged to have raped the informant who is forty-five years of age, but during the course of investigation the victim's statement was recorded under Section 164 of Cr.P.C. in which she simply alleged that this appellant and co-accused Sonu wrapped a towel around her neck and thereafter assaulted her owing to which she became unconscious and after that she did not have knowledge as to what happened with her and accordingly she made serious contradiction in the said statement regarding the allegations levelled by her in the FIR and according to her statement made before Judicial Magistrate she was not raped by the accused persons and regarding the number of the accused persons she also made contradictory statement before the Judicial Magistrate. Further submission is that co-accused Sonu Kumar carrying similar nature of allegation as per victim's statement recorded under Section 164 of Cr.P.C. has been granted bail by a

co-ordinate bench of this Court vide order passed in Cr. Misc. No. 45353 of 2019 and other co-accused persons namely, Awadesh Manjhi, Kapil Paswan, Durga Paswan, Aditya Paswan who were named in the FIR have also been granted bail by a co-ordinate bench of this Court vide order passed in Cr. Misc. No. 45009 of 2019 and other co-accused namely Kunal Kumar @ Mukhiya has also been granted bail by a co-ordinate bench of this Court vide order passed in Cr. Misc. No. 56474 of 2019 and the case of this appellant is on similar footing with co-accused Sonu Kumar and he has been languishing in jail since 21.07.2022. Further submission is that the informant and appellant are co-villagers and due to village politics the FIR was lodged with false allegations and the appellant is a young person and he has been chargesheeted.

Learned APP for the State has opposed this appeal and submitted that the order impugned has been rightly passed and in view of the nature of allegation the appellant does not deserve to the privilege of bail and the instant appeal is liable to be dismissed.

Considering the above submissions and mainly the contradiction between the allegations levelled in the FIR and the facts revealed by the victim before the Judicial Magistrate in her

statement recorded under Section 164 of Cr.P.C. and also the fact that similarly situated co-accused Sonu Kumar is on bail and other named co-accused persons mentioned above are also on bail and the appellant is languishing in jail since 21.07.2022, in my opinion, the appellant deserves to the privilege of bail. Accordingly, the order impugned is hereby set aside and the appeal is hereby allowed, let the appellant named-above be enlarged on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST Act, Gaya in Connection with Muffasil PS Case No. 106 of 2019.

(Shailendra Singh, J)

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