

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3446 of 2022

Arising Out of PS. Case No.-258 Year-2020 Thana- GAURICHAK District- Patna

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Dina Nath Kumar S/O Ram Dayal Ray Resident of Nayachak Fahempur, P.S.-
Gaurichak, District- Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Kumar Azad, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 23-06-2023

I.A. No. 01 of 2023

This Interlocutory application has been filed under Section 5 of the Limitation Act by the appellant for condonation of delay of 10 days caused in filing the present application.

For the reason as mentioned in I.A. No. 01 of 2023, the delay of 10 days caused in filing the present application is condoned herewith.

Interlocutory Application No. 01 of 2023 stands allowed and disposed of.

The present appeal on condonation of delay is admitted for hearing.

Heard learned counsel for the appellant and learned Special P.P. for the State on point of admission and on merit also.

2. The appellant has preferred the present appeal



under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') against the order dated 25.05.2022 passed by the learned Exclusive Special Court, Special Judge, (SC/ST) POA Act, Patna in connection with Special Case No. 362 A of 2020 arising out of Gaurichak P.S. Case No. 258 of 2020 registered under Section 376-D of the Indian Penal Code, under Section 66(b)(c)(d) and 67 of the Information Technology Act (in short 'I.T. Act') and under Sections 3(2) (V), 3(2)(V-a), 3(1) W(1) W(ii) of the SC/ST (POA) Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. Notice has been issued to Respondent no.2, duly served upon but the informant failed to join present proceedings.

5. Appellant is not named in F.I.R. and is in custody since 24.08.2020.

6. The allegation against the appellant is to commit gang rape upon informant, while she was returning to her home after purchasing medicine and took lift on way from appellant.

7. Learned counsel for the appellant submitted that the implication of appellant is out of local disputes and differences. It is submitted that mere on the basis of identification from



CCTV footage of the locality, the appellant implicated in present case, where no TIP was conducted, till date. It is pointed out that in the background of allegation of gang rape, on medical examination, no marks of physical violence and any injury in and around private parts of victim were noticed, negating allegation of gang rape on its face. It is submitted that even the date of occurrence is not mentioned in the F.I.R.. While travelling over the argument it is submitted by learned counsel that the present allegation is completely false and victim made instrumental to lodge false case on behalf of certain persons of locality with whom the appellant having of inimical terms. Learned counsel further submitted that appellant is in custody since 24.08.2020 and almost in last three years charges not even framed in this case and, as such, the conclusion of trial is a remote aspect. It is also submitted that the act of appellant is not of such nature, which may be said to be an atrocities within the meaning of the Act. While concluding the argument, it is submitted that appellant is a man of clean antecedent and moreover, investigation of this case has been completed, for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant submitted that if



insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in ***State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276.***

9. Learned Special P.P. for the State, while opposing the prayer of bail submitted that the allegation of gang rape is available against this appellant, where he was identified through CCTV footage. It is also submitted that from the perusal of report of learned Exclusive Special Court, SC/ST Act, Patna dated 11.05.2023, as available on record, charge is yet to be framed in this case.

10. In view of the facts and circumstances, as mentioned above, as appellant is not named in F.I.R., where no TIP was conducted, where appellant is in custody since last three years and charge even not framed in this case suggesting conclusion of trial a remote task, accordingly, the appellant, above named, is directed to be released on bail in connection with Gaurichak P.S. Case No. 258 of 2020 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Court, Special Judge, SC/ST, Patna/concerned Court, subject to the conditions as laid down u/s 437(3) of the



Cr.P.C. with further conditions:

(i) That the appellant shall not interact with the informant/victim or other witnesses in any manner during the pendency of the trial, failing which, the State shall be at liberty to move before the learned Trial Court itself for the cancellation of bail bond of the appellant.

(ii) That the appellant shall cooperate in the trial and shall be physically present on each and every date before the learned Trial Court till the conclusion of trial and exemption from physical appearance be allowed by the learned Trial Court, only on medical ground of the appellant duly supported by the documents.

11. Accordingly, impugned order dated 25.05.2022 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J.)

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