

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4244 of 2022**

Arising Out of PS. Case No.-336 Year-2022 Thana- FATEHPUR District- Gaya

ANTOSH YADAV @ SITAN YADAV Son of Rajendra Yadav @ Rajendra
Prasad R/v- Bairiyatand, P.S.- Sirdalla, District- Nawada

... .. Appellant/s

Versus

1. The State of Bihar
2. MANTI DEVI Wife of Surendra Manjhi R/v- Bhaktauriya, P.S.- Fatehpur
and District- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manish Kumar No2, Adv.
For the Respondent/s	:	Mr.Usha Kumari 1, Spl.PP. Mr. Shada Nand Mishra, Adv. Mr. Deepak Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 22-03-2023 Heard the parties.

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 14.10.2022 passed by learned Exclusive Special Judge SC/ST (PoA) Act, Gaya in connection with Fatehpur P.S. Case No. 336 of 2022 registered under Sections 341, 323, 504, 506, 376 and 34 of the Indian Penal Code and Section 3(1) (r) (s)/3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

The prosecution case, in brief, is that when the informant



namely Manti Devi was grazing her animals, the FIR named accused came and abused her by taking caste name. Appellant is said to have assaulted her by legs and fists. It is further alleged that six years ago, the appellant entered the house of the informant and committed rape on point of *Pistol* and since then, the appellant regularly committed rape with her. Also on 06.06.2022, the appellant entered her house and tried to outrage her modesty but with the help of villagers he was got caught.

It is submitted by learned counsel for the appellant that appellant is quite innocent and has committed no offence. No such occurrence as alleged ever took place. It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. The allegation of assault levelled against the appellant is not specific rather general and omnibus in nature. It is further submitted that the victim is a major and aged more than 30 years. There is inordinate delay of six years in lodging the FIR without assigning any plausible explanation for the said delay which creates serious doubt about the prosecution case. He has been falsely implicated in the case due to ulterior motives. The prosecution story becomes doubtful as a lady has been raped since last six years, but she has not disclosed this fact to anyone or her husband. Slating the



informant/complainant in the name of caste is said to have been made at the house of the appellant and not in public view, hence no offence under SC/ST Act is made out against the appellant. He further submits that it is relevant to mention that the SC/ST Act has been added in the present FIR only for making the case severe. The medical report of the informant has not supported the prosecution case. Appellant has no criminal antecedent as mentioned in para-3 of this memo of appeal.

Learned Spl. PP for the State as well as the learned counsel for the informant oppose the prayer for bail and submit that before six years ago, victim was a minor. They further submit that the statement of the victim under Section 164 Cr.P.C. has been recorded, in which she supported the prosecution case. The allegations levelled against the appellant is serious in nature, hence he does not deserve anticipatory bail.

Considering the facts and circumstances of the case as well as the argument of the parties, as there is delay of six years in lodging the FIR and the medical report of the victim does not support the prosecution case, 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 released 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 the learned Exclusive Special Judge SC/ST, Gaya in connection with Fatehpur P.S. Case No. 336 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Anjani Kumar Sharan, J)

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