

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4310 of 2022

Arising Out of PS. Case No.-154 Year-2022 Thana- BAIRIYA District- West Champaran

BHUTU GADDI Son of Jahur Gaddi R/V- Patkhauli, P.S- Bairiya, Distt.-
West Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Kaushilya Devi Wife ofJokhu Paswan R/o vill- Malkauli Patkhauli ward no-
2, P.S.-Bairiya, Dist- West Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Akhileshwar Kumar Shrivastva
For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

5 14-12-2023 Heard learned counsel for the appellant, learned
counsel for the informant and learned Special Public Prosecutor
for the State.

2. The instant appeal has been filed by the appellant
against the order dated 15.10.2022 passed by learned A.D.J.Ist-
cum-Special Judge (SC/ST), Bettiah, West Champaran whereby
the prayer for bail of the appellant in connection with Bairiya
P.S. Case no. 154 of 2022 under Sections 341, 323, 324, 366(A),
376, 504/34 of the Indian Penal Code and sections 3(i)(r)(s),
3(2)(v-a) of SC/ST (POA) Act was rejected.

3. It is a case of abduction and commission of rape
with the informant's daughter by the appellant.



4. It is submitted by learned counsel for the appellant that appellant is innocent and has committed no offence. He has been falsely implicated in this case due to ulterior motive of the informant. The allegation levelled against the appellant is false and fabricated. The F.I.R. has been lodged after the inordinate delay of 5 months. The victim was recovered on 08.03.2022 whereas her statement u/s 161 as well as 164 of the Cr.P.C. was recorded on 15.06.2022 which is much delay. The medical report of the victim does not corroborate the prosecution case. The appellant has not taken the caste name of the informant in public view. No offence is made out under the provisions of the SC/ST Act against him. He has got no criminal antecedent and languishing in judicial custody since 24.07.2022.

5. In pursuance to the direction of this court, a report dt. 25.11.2023 with regard to present stage of trial has been received by which, it appears that charge has been framed on 10.11.2023. Informant of this case namely, Kaushlya Devi has been examined and rest eight prosecution witnesses to be examined. The case is running for prosecution evidence. In approximately nine months likely to be needed to conclude the trial.

6. Per contra, it is submitted by learned counsel for



the appellant that appellant is languishing in judicial custody for more than one year and four months and there is no hope to conclude the trial in near future.

7. The appeal for bail is opposed by learned Spl. P.P. for the State and learned counsel for the informant and submitted that there is an allegation of committing rape with the victim against the petitioner.

8. Having heard learned counsel for the parties and taking into consideration that there is general and omnibus allegation against the appellant, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 15.10.2022 is hereby set aside.

9. The appellant is directed to be enlarged on bail in connection with Bairiya P.S. Case No. 154 of 2022 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned A.D.J. Ist-cum- Special Judge (SC/ST), Bettiah, West Champaran.

(Sunil Kumar Panwar, J)

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