

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.416 of 2024

Arising Out of PS. Case No.-401 Year-2023 Thana- SULTANGANJ District- Bhagalpur

Amar Kumar @ Amar Yadav S/o Manoj Yadav R/o Vill - Mirhatti, P.S. -
Sultanganj, Dist. - Bhagalpur

... .. Appellant/s

Versus

1. The State of Bihar
2. Gita Devi W/o Shanichar Rishi R/o Vill - Mirhatti, P.S. - Sultanganj, Dist. -
Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ambrish Jha, Advocate
For the Respondent/s	:	Mr. Binay Krishna, SPP
For the Informant	:	Ms. Pravina Kumari, Advocate

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 25-04-2024 Heard learned counsel for the appellant, learned Special
Public Prosecutor for the State and learned counsel for the
informant.

2. The instant appeal has been filed by the appellant
against the order dated 08-12-2023 passed by learned Additional
District and Sessions Judge III-cum-Special Judge (SC/ST Act),
Bhagalpur whereby the prayer for bail of the appellant in
connection with Special SC/ST Case No. 156 of 2023 arising
out of Sultanganj PS Case No. 401 of 2023 under Sections 376,
511 & 34 of the Indian Penal Code and Section 3(i)(r)(w) of
SC/ST Act was rejected.

3. Prosecution case, in short, is that on 27-07-2023



when informant went for nature call, then the co-accused, including this appellant torn her clothes and tried to rape her and on ruckus, they fled away.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. Charge-sheet has been submitted in this case. So far as allegation of injury is concerned, it is against co-accused, namely, 'Kanhai Yadav' and the injury is opined to be simple in nature. It is also submitted that there is delay of 6 days in lodging of the FIR. It is further submitted that on the instance of some co-villagers, the husband of the informant has falsely implicated the appellant in this false case, in which he used his wife as a victim. Learned counsel for the appellant further submits that the appellant has not taken the caste name of the informant in public view. Hence, no offence under the provisions of SC/ST Act is made out against him. The appellant has no intention to disgrace the image of the informant in public view. The appellant has surrendered before the court below and is in custody since 17-10-2023 and has no criminal antecedent.

5. Learned Special P.P. for the State and learned counsel for the informant have vehemently opposed the prayer for grant of bail to the appellant. Referring to paragraph Nos. 38



& 43 of the case diary, it is submitted that the same corroborates the allegation levelled against the appellant. It is also submitted that victim in her statement recorded under Section 161 and 164 of the Cr.P.C. has also supported the prosecution version.

6. Considering the aforesaid facts and circumstances of the case, clean antecedent of the petitioner and the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 08-12-2023 passed by learned Additional District and Sessions Judge-III-cum-SC/ST Special Court, Bhagalpur is hereby set aside.

7. Let the appellant be released on bail, **after framing of charge, if not already framed**, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Sultanganj PS Case No. 401 of 2023 (SC/ST case No. 156 of 2023), subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the appellant.

(II) The appellant shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the



bail bonds of the appellant.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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