

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.997 of 2024

Arising Out of PS. Case No.-175 Year-2023 Thana- SARSI District- Purnia

Jyotish Mahaldar Son of Sri Umesh Mahaldar Resident of Village- Lafha Chowk, Dumaria, P.S. - Sarsi, District- Purnea

... .. Appellant/s

Versus

1. The State of Bihar Patna
2. Manisha Kumari Daughter of Sri Haldhar Sharma Resident of Village- Lafha Chowk, Dumaria, P.S.- Sarsi, District- Purnea

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Amit Kumar Anand, Adv.
For the Respondent no.2	:	None
For the State	:	Mr.Binay Krishna, Spl.PP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 08-08-2024 Heard learned counsel for the appellant and learned Spl. P.P. for the State. However, learned counsel for the respondent no. 2 is not present despite notice is validly served upon the respondent no. 2.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the rejection of prayer for bail of the appellant vide order dated 17.10.2023 passed by the learned Special Judge SC/ST Act, Purnea in connection with Sarsi P.S. Case No. 175 of 2023 dated 29.08.2023 registered for the alleged offences punishable under Sections 376 read with Section 34 of the Indian Penal Code and Sections 3(1)(r)(s)/



3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per the prosecution case, the marriage of the informant was solemnized with Krishna Kumar four months ago. It is alleged that before the marriage, the appellant established physical relation with the informant and thereafter, the informant was pregnant of four months. It is also alleged that the appellant with the help of the other co-accused persons shot the obscene video of the informant and physically tortured her again and again. After the marriage, when the informant's husband and her in-laws suspected the informant then she was checked up by the doctor. The informant was pregnant of eight months. It is further alleged that the informant called the panchayati and after panchayti, it was decided that the appellant gave Rs. 4,50,000/- to the informant but the appellant did not give any money. The in-laws of the informant is not ready to keep the informant due to pregnancy.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. The victim is aged about 20 years old who knew the consequence of the act of the appellant. Learned counsel has further submitted that the victim girl and the appellant chose to



have physical relationship of their own will. It is further submitted that no member of public was present at the relevant point of time of the incident and hence, no offence under provisions of SC/ST Act is made out against the appellant. As per the medical report of the victim, there is no sign of sexual assault found at the time of examination. It is further submitted that the appellant has no concern with the alleged offence. The appellant has no criminal antecedent as stated in para 3 of the bail petition. The appellant is in custody since 30.08.2023.

5. Learned Special Public Prosecutor for the State has opposed the prayer for bail of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 17.10.2023 passed by the learned Special Judge SC/ST Act, Purnea in connection with Sarsi P.S. Case No. 175 of 2023, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST Act, Purnea in connection with Sarsi P.S. Case No. 175



of 2023 with the condition :-

(i) The appellant is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail bond.

(Chandra Prakash Singh, J)

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