

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.977 of 2024

Arising Out of PS. Case No.-796 Year-2023 Thana- LAKHISARAI District- Lakhisarai

Vikash Kumar Son of Hisabi Yadav Resident of Village- Bihraura, P.S.-
Ramgarh Chowk, District- Lakhisarai

... .. Appellant/s

Versus

1. The State of Bihar
2. Sanjivani Kumari Wife of Chhote Lal Ravidas Resident of Village- Dheera,
P.S.- Halsi, District- Lakhisarai

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Mukesh Kumar, Adv.
For the State	:	Mr.Sadanand Paswan, SPP
For the Resp. No.2	:	Mr. Shailesh Anand, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

4 20-06-2024 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State and learned counsel for
the informant. Perused the case diary.

2. The instant appeal has been filed by the appellant
against the order dated 24.01.2024 passed by learned Additional
District & Sessions Judge-1st Cum Special Judge, Lakhisarai
whereby the prayer for bail of the appellant in connection with
Lakhisarai (Ramgarh Chowk) P.S. Case No. 796 of 2023 under
Sections 376, 354(A) of the Indian Penal Code and Section 3(i)
(xi) (xii) of the SC/ST Act was rejected.

3. The prosecution case, in short, is that one month
prior to the date of institution of the F.I.R., the appellant



suddenly entered into the room of the Informant and forcibly committed rape upon her. It is further alleged that on 08.10.2023, when the victim was feeding milk to her child, suddenly the appellant entered in her house and started outraging her modesty and also touched her private part and took away her *Mangalsutra*. On 16.10.2023, the appellant also reached at her *Sasural* and threatened to kill her and her husband.

4. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. He submits that the appellant is a 45% handicapped person and is unable to move freely. He further submits that the alleged occurrence took place on 08.10.2023 and one month ago but, the instant F.I.R. has been lodged on 17.10.2023 without any plausible explanation for such delay which itself falsifies the whole prosecution story. The medical report also does not show any sign of sexual assault or physical assault and, as such, Section 376 I.P.C. is not made out against the appellant. He again submits that the occurrence took place inside the room and, as such, 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 is in



custody since 17.10.2023 and has one criminal antecedent. Charge-sheet has been submitted in this case.

5. Learned Special P.P. for the State and the Informant have vehemently opposed the prayer for grant of bail to the appellant. Learned counsel for the Informant submits that the charge has been framed on 19.06.2024.

6. Considering the aforesaid facts and circumstances of the case 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 24.01.2024 passed by learned Additional District & Sessions Judge-1st Cum Special Judge, Lakhisarai is hereby set aside.

7. Let the appellant, abovenamed, be released on bail 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 Lakhisarai (Ramgarh Chowk) P.S. Case No. 796 of 2023, subject to following conditions;

(i) One of the bailor(s) shall be the own/close family members of the appellant.

(ii) The appellant shall cooperate in the trial and shall be properly represented on each and every date fixed by the



court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(iii) If the appellant tampers with the evidence or the witnesses of the case by intimidating/pressurizing the witnesses, during the investigation or trial, in that case, prosecution will be at liberty to move for cancellation of bail of the appellant.

(Rudra Prakash Mishra, J)

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