

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.956 of 2024

Arising Out of PS. Case No.-593 Year-2023 Thana- DINARA District- Rohtas

Pappu Yadav @ Pappu Kumar Son of Shyam Narayan Singh Resident Of
Village- Gaura, Ps- Dinara, Distt- Rohtas

... .. Appellant/S

Versus

1. The State of Bihar
2. Sarita Devi Wife of Ajay Paswan Resident of Village- Gaura, Ps- Dinara,
Distt- Rohtas

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Jitendra Kumar Singh, Advocate
	:	Ms.Dimpal Kumari, Advocate
For the Informant	:	Mr.Surendra Kumar Mishra, Advocate
For the Respondent/s	:	Mr.Binay Krishna, APP

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

ORAL ORDER

3 02-05-2024 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State, learned counsel for the
informant and perused the case diary.

2. The instant appeal has been filed by the appellant
against the order dated 31.01.2024 passed by the learned
Additional District and Sessions Judge-XVII-cum-Exclusive
Special Judge SC/ST, Rohtas at Sasaram, whereby the prayer for
bail of the appellant in connection with Dinara P.S. Case No.
593 of 2023 under Sections 376, 511, 354(C), 307, 341, 323, 34
of the Indian Penal Code and 3(i)(r)(w) of SC/ST Act was
rejected.



3. The prosecution case, in short, is that when the informant was returning, the appellant intercepted with bad intentions and tried to commit wrong with her. When the informant resisted, the appellant tried to kill her. In the meantime, the son of the informant came, the appellant fled away from the spot. When the informant narrated the occurrence to her husband, he went to the house of the appellant where other accused persons abused him using caste name.

4. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. Charge-sheet has been submitted in this case under Sections 376, 377, 307, 341, 323, 34 of the Indian Penal Code and 3(i)(r) (w)/3(2)(v) of the SC/ST Act. He further submitted that allegations made in the FIR are contrary to the statement of the victim recorded under Section 164 of the Cr.P.C. He further submitted that although informant has stated that the appellant committed rape with her but on perusal of the case diary specifically in paragraph no.85 it is stated that no any spermatozoa was found either dead or alive in the vaginal swab of the informant. He further stated that the pregnancy test of the informant was found negative. 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 is in custody since 13.12.2023 and has no criminal antecedent.

5. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the appellant.

6. Considering the aforesaid facts and circumstances of the case and the contrary statements of the victim in FIR and Section 164 of the Cr.P.C. as well as the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 31.01.2024 passed by the learned Additional District and Sessions Judge-XVII-cum-Exclusive Special Judge SC/ST, Rohtas at Sasaram is hereby set aside.

7. Let the appellant, abovenamed, 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 Dinara P.S. Case No. 593 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.

(III) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

8. The appeal stands allowed.

(Rudra Prakash Mishra, J)

Alok Verma/-

U		T	
---	--	---	--

