

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1393 of 2024

Arising Out of PS. Case No.-57 Year-2023 Thana- MAHILA PS District- Gaya

MANTU KUMAR @ SONU KUMAR S/O MANOJ KUMAR @ MANOJ
PASWAN R/O VILLAGE- BAIKATAPUR @ BAITHAKPUR, P.S- KONCH,
DISTT.- GAYA.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. Khushi Kumari D/O Anil Kumar Rai R/O village- Bageshwari Kali Sthan,
Saainya Gali, East of Mandir, P.S- Delha, District- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Durgesh Nandan
For the Respondent/s	:	Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 09-05-2024 Heard learned counsel for the appellant and Special
Public Prosecutor for the State.

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 vide order dated 17.02.2024 passed by the learned Special Judge POCSO Court-cum-Additional District and Sessions Judge Vith, Gaya in connection with Mahila P.S. Case No. 57 of 2023 dated 12.07.2023 registered for the offence/s punishable u/ss 341, 323, 376D, 379, 504 and 506 of the Indian Penal Code and 3(1)(r)(s)(w)(i) / 3(2) (v) of the SC/ST (POA) Act and section 6 of the POCSO Act.

3. As per the prosecution case, when the informant was going to coaching class, in the meantime, the co-accused persons told



the informant that the co-accused Shailesh Kumar has called her to the residence. When the informant went to the residence of Shailesh Kumar, thereafter they started abusing by calling her caste name and they tied her legs forcibly and thereafter the petitioner raped her forcibly.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. There is a delay of about three months in lodging the FIR and there is no reasonable explanation given for delay in lodging the FIR. The said occurrence took place at Dhanicha Bagicha Mohallla in broad day light at 12 PM but the victim has not raised any alarm while she was being taken away forcibly by the petitioner and the co-accused persons. As per the medical report, the victim is aged about 16 years and there is no recent sign of sexual intercourse but rape cannot be denied. As per FIR, no member of public was present at the relevant point of time of the alleged incident hence no case is made out under section SC/ST Act. The appellant has no criminal antecedent as stated in para 3 of the bail petition. The appellant is in custody since 13.12.2023.

5. Learned Spl. P.P. for the State has vehemently opposed the bail petition 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 17.02.2024



passed by the learned Special Judge POCSO Court-cum- Additional District and Sessions Judge Vith, Gaya in connection with Mahila P.S. Case No. 57 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 POCSO Court-cum- Additional District and Sessions Judge Vith, Gaya in connection with Mahila P.S. Case No. 57 of 2023, with the condition/s:-

(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 bail bonds of the appellants are liable to be cancelled.

(Chandra Prakash Singh, J)

guddukr/-

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