

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1714 of 2024

Arising Out of PS. Case No.-2 Year-2023 Thana- MAHILA P.S. District- Samastipur

Shashi Kumar Patel Son of Late Kailash Patel R/o Village- Gangapur, P.S.-
Musrigharari, District- Samastipur

... .. Appellant

Versus

1. The State of Bihar Bihar
2. x D/o Late Dvipat Sada R/o Village- Gangapur, P.S.- Musrigharari, District-
Samastipur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Vaishnavi Singh, Advocate
For the Respondent/s	:	Ms/Mrs. Usha Kumari 1, Spl.P.P
for respt.no.2		Mr. Bachanjee Ojha, Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 22-11-2024 Heard learned counsel for the appellant, the State and
respondent no.2.

2. The instant appeal has been filed by the appellant against the order dated 2.2.2024 passed in a case registered under Sections 376,323,341,504/506 of the Indian Penal Code and sections 3(2)(v) of SC/ST Act, by which his regular bail has been rejected.

3. As per prosecution case, the appellant on the false promise of marriage, committed rape on respondent no.2 and started living with her and gave birth of a child and when respondent no.2 requested him to marry, the appellant abused and ousted respondent no.2 from the house.

4. It is submitted by learned counsel for the appellant



that respondent no.2 is an adult lady, and when the relationship developed both parties were major. They enjoyed each other's company for years and thus it was a consensual relations and the same cannot be said to be rape. There is no mentioning of specific time of alleged occurrence has been mentioned in the FIR. It is further submitted that in the FIR dated 5.1.2023, victim has alleged that six months back she gave birth to a male child, whereas in her section 164 Cr.P.C. statement, she has stated that she gave birth to a child on 15.8.2021. It is not the case of the respondent no.2 that any member of the public was present at the place of occurrence, as such, no offence under the SC/ST Act is made out against the appellant. Appellant claims clean antecedent and he is in custody since 12.6.2023 Charge sheet has already been submitted.

5. Counsel for the State and the respondent no.2 oppose the prayer for bail.

6. Considering the aforesaid facts, this appeal is allowed and the impugned order is set aside.

7. Let the appellant, named above, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the Special Judge, SC/ST Act, Samastipur in Mahila Police Station Case



No. 2 of 2023.

(Prabhat Kumar Singh, J)

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