

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 1893 of 2024

Arising Out of PS. Case No.-20 Year-2023 Thana- MAHILA P.S. District- Araria

Afsar @ Md Afsar Alam Son of Jawed @ Md Jawed Alam @ Jawed Alam, aged about 20 years as per FIR but real age is 16 years 4 months 16 days according to Juvenile Board, R/o Village- Majgama, P.S.- Mahalgaon, district- Araria, Under guardianship of father Jawed @ Md. Jawed Alam S/o Nurul Hasan

... .. Appellant/s

Versus

The State of Bihar Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vijay Kishore Bharti
For the Respondent/s : Mr.Mukeshwar Dayal

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL ORDER

4 12-08-2024 Heard.

2 This appeal has been preferred against the order dated 15.03.2024 passed by the learned Additional Sessions Judge I -cum- Special Judge, Araria in Special (Child) Case No 2 of 2024 arising out of Mahila PS Case No 20 of 2023 for the offence punishable under Section 376 (3) of the IPC and Section 4 of the POCSO Act whereby the learned Special Judge rejected the prayer for bail of the appellant.

3 According to the case of the prosecution, on 17.05.2023 at about forenoon, when the victim girl was going towards maize field along with her uncle, allegedly the appellant took her inside the maize field and there he committed forcible



sexual intercourse with her.

4 On the basis of information lodged by the victim girl, the offence has been registered under Sections 341, 323, 324, 354, 376 (1)/34 of the IPC and Section 4 of the POCSO Act. The appellant has been taken in custody on 25.11.2023.

5 Learned counsel for the appellant submits that due to some previous enmity with the victim girl's family, the appellant has been implicated in this case. He further submit that the FIR has been lodged after 16 days of the incident and delay has not been explained by the victim girl. He also submits that medical report of the victim girl does not support the case of the prosecution. Therefore, it appears that the appellant has been falsely implicated in this case. He further submits that the social investigation report also does not suggest anything against the appellant. Therefore, it is prayed that the appellant may be granted the privilege of bail.

6 Learned counsel for the State opposes the prayer for bail.

7 Considering the submission of both the counsel and further considering the fact that the appellant is in jail since 25.11.2023 and also considering the fact that the social investigation report does not suggest anything against the



appellant, the appellant is granted the privilege of bail.

8 Considering the above facts, this appeal is allowed.

9 Let the appellant above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge I -cum- Special Judge, Araria in Special (Child) Case No 2 of 2024 arising out of Mahila PS Case No 20 of 2023 subject to the following conditions:

(i) That one of the bailors should be the father of the appellant, and

(ii) That the father of the appellant shall file an affidavit before the concerned Court below, giving specific undertaking that after release of the appellant on bail, he will take proper care of the appellant and will not allow him to fall into bad company.

(Arvind Singh Chandel, J)

M.E.H./-

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