

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2279 of 2023

Arising Out of PS. Case No.-426 Year-2018 Thana- MAJORGANJ District- Sitamarhi

Narendra Singh @ Narendra Kumar Singh @ Bihari @ Chhotu Son of Shivaji Singh @ Shiv Narayan Singh R/O Khairwa Khurd, PS- Majorganj, Dist- Sitamarhi

... .. Appellant/s

Versus

1. The State of Bihar
2. Lalita Kumari D/O. Late Gogal Manjhi Resident of Village - Khairua Got, P.S. - Majorganj, District - Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Rajeev Kumar Singh, Adv.
For the Respondent/s	:	Mr. Binay Krishna, SPP
For the Informant	:	Mr. Md. Jubair Ansari, Adv.

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

7 14-03-2024 Heard learned counsel for the appellant, learned Special Public Prosecutor for the State and learned counsel for the informant.

2. The instant appeal has been filed by the appellant against the order dated 15.03.2022 passed by learned Additional District and Sessions Judge VI cum Special Judge, POCSO Act, Sitamarhi whereby the prayer for bail of the appellant in connection with Tr. No. 121 of 2019 arising out of Majorganj P.S. Case No. 426 of 2018 under Sections 376, 341, 323, 504 of the I.P.C. and Sections 3(r)



(s)(w)(i)(ii) of the SC/ST Act was rejected and Section 6/8 of the POCSO Act was rejected.

3. The appellant has earlier moved before this Court for grant of regular bail which was rejected vide order dated 02.07.2019 passed in Cr. Appeal (SJ) No. 2217 of 2019. Thereafter, the appellant again moved before this Court for grant of bail which was rejected vide order dated 09.04.2021 passed in Cr. Appeal (SJ) No. 2083 of 2020.

4. The appellant has said to have established sexual relationship with the Informant on the pretext of performing marriage with her and when she became pregnant, he resiled from his commitment.

5. 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. As a matter of fact, the victim was in love with the appellant and there has been consented sexual relationship between them and thus, no offence under Section 376 IPC is made against he appellant. On medical examination, the doctor has also not found any sign of rape against her. Charge-sheet has been



submitted against the petitioner in this case. The police has also not taken the statement of any independent witness in this case. He further submits that the Informant is not a minor girl and has also solemnized marriage with one Narendra Manjhi just after lodging of the present case. The appellant has no criminal antecedent and is in custody since 14.12.2019. 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.

6. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the appellant stating that this the third attempt of the appellant. Earlier the prayer for bail of the appellant has been rejected twice. Learned counsel for the Informant submits that the victim happens to be minor aged about 14 years and the appellant has established sexual relationship with her time and again and ultimately, she became pregnant. As victim is minor, the consent of the victim towards the establishment of sexual relationship is not



material.

7. Pursuant to the order of this Court, the court below has sent its reported dated 16th of February, 2024 stating therein that total six prosecution witnesses have been examined and the next date is fixed for defence evidence on 28.02.2024 and the trial is likely to be concluded within three months.

8. Considering the aforesaid facts and circumstances of the case and looking to the fact that the allegation made against the appellant is serious in nature as the girl is minor as also looking to the report of the court below, this Court is not inclined to grant bail to the appellant for the present.

9. Accordingly, the prayer for bail of the appellant, above named, is rejected with a direction to the court below to expedite the trial and conclude the same expeditiously preferably within a period of three months from today.

10. If the trial is not concluded within the aforesaid period of three months, the appellant will be at liberty to renew his prayer for bail before the court below which will be



disposed of on its merit without being prejudiced by this
order.

(Rudra Prakash Mishra, J)

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