

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2141 of 2024

Arising Out of PS. Case No.-43 Year-2020 Thana- MAHILA P.S BAGHA District- West
Champaran

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XXX Son of Dukhi Chaudhary @ Rajnet Chaudhary Resident of Nuniyawa
Tola, Police Station - Bhairganj, District - West Champaran under natural
Guardianship of his uncle (Fuffa) namely Harichandra Chaudhary Age about
61 years, S/o Banarshi Chaudhary R/o - Pakadi Kolhua, P.S.- Chautraba,
Distt.- West Champaran, Bihar

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Dhananjay Kumar

For the Respondent/s : Mr.Anand Mohan Prasad Mehta

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

4 09-08-2024 Heard learned counsel for the appellant and learned
APP for the State.

2. The present appeal has been filed against the order
dated 25.08.2022 passed by learned Additional District and
Sessions Judge 1st cum Special Judge(SC & ST), Bettiah West
Champaran in connection with Bail petition No. 3841 of 2022
arising out of Bagaha (Mahila) P.S. Case No. 43 of 2020
registered under Sections 341, 323, 337, 376, 504, 506 and 34 of
the IPC and Sections 4 and 12 of POCSO Act and Section 3 &
4 of D.P. Act whereby and whereunder the prayer for bail of the
appellant was rejected.

3. As per prosecution case, when the minor daughter
of the informant was changing her cloth after bath then the



informant saw the stomach of her daughter which was over shaped. Thereafter the informant asked her daughter regarding the incident then she narrated the matter in details stating therein that seven months ago while she had gone to attend natural call in field the appellant committed rape upon her and threatened for dire consequence. The appellant again committed rape upon her on the pretext of marriage. It is further alleged that when she asked to marry her, appellant and his family members demanded Rs. 2 lakhs in dowry.

4. Learned counsel for the appellant submits that the bail prayer of the present appellant has already been rejected twice by this Court on 18.07.2023 and 13.03.2024 respectively. On 13.03.2024, the prayer for bail of the appellant was rejected with an observation that learned trial court is directed to expedite the trial by putting the same on day to day basis as early as possible preferably within one month from the date of receipt/production of copy of this order and if same is not concluded within the above stated period, the prayer for bail may be renewed. It is further submitted that trial court report reveals that trial is at the same stage which was on 13.03.2024 when appellant's second time prayer for bail was rejected and the delay of trial is not in any way attributable to the present



appellant. He further submits that the appellant being juvenile is in custody since 09.12.2020 and bears no criminal antecedent. He further submits that appellant has undergone more than three years and eight months in custody. It is further submitted that appellant is behind bar for an unlimited period of time in hope of speedy completion of trial and it is against the spirit of personal liberty of the appellant. He further submits that entire allegation against the appellant is false and fabricated. Learned counsel for the appellant (juvenile) submits that father and mother of the appellant have been made accused and cognizance has been taken against them and the uncle (Fufa) of the appellant undertakes the responsibility of the appellant.

5. Learned A.P.P for the State vehemently opposes the prayer of bail of the appellant and submits that bail prayer of the appellant has been rejected twice on merit. He further submits that the appellant has committed serious offence and sufficient materials are available on record against the appellant. Learned A.P.P. further submits that victim in her statement supported the prosecution case and the doctor, who examined the victim, in medical report also supported the case of prosecution and found that victim is pregnant for 31 weeks.

6. A report regarding stage of trial has been sought by



this Court and in pursuance of the said direction, the trial court vide letter no. 532 dated 02.07.2024 has sent its report reiterating its earlier report contained in letter no. 194 dated 23.02.2024 to the effect that out of nine witnesses, eight witnesses have been examined. It is evident from the report that there is no progress in the trial and the same is pending at the same stage as it was on 13.03.2024, the date on which prayer for bail of the appellant was lastly rejected.

7. In view of aforesaid facts and circumstances of the case, the submission advanced on behalf of the parties, undertaking given by the uncle (fufa) of the appellant that he will take proper care of the appellant and will not allow him to go in the company of bad elements, the material available on record and report of the trial court, impugned order dated 25.08.2022 is hereby set aside and the appeal is allowed.

8. Accordingly, the above-named appellant(juvenile) is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/-(rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge 1st cum Special Judge(SC & ST), Bettiah West Champaran in connection with Bail petition No. 3841 of 2022 arising out of Bagaha (Mahila) P.S. Case No. 43 of 2020,



subject to condition that one of the bailors will be uncle (fufa) of the appellant who will file an affidavit giving an undertaking to the effect that he will take proper care of good behaviour and child's (appellant's) well being and will not allow him to go in the company of bad elements and shall fully co-operate in expeditious disposal of the trial.

9. Accordingly, the instant appeal stands disposed of.

(Alok Kumar Pandey, J)

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