

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2604 of 2023

Arising Out of PS. Case No.-33 Year-2023 Thana- MADHEPURA District- Madhepura

Rudal Yadav Son of Late Dhanik Lal Yadav Resident Of Village- Bhawanipur,
P.S. And Distt. - Madhepura, At Present Residing At Village - Godhiyari, P.S.
And Distt. - Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Rambha Devi Wife of Manoj Sada Resident of village - Sihpur, P.S. and Distt. - Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Uday Chand Prasad, Adv.
For the Respondent/s	:	Mr.Sadanand Paswan, SPP
For the Resp. No.2	:	None

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA

ORAL ORDER

8 18-04-2024 Heard learned counsel for the appellant and learned Special Public Prosecutor for the State.

2. Learned Special public Prosecutor submits that pursuant to the direction of this Court, he has already informed the respondent no.2 but, in spite of that, no one has turned up on behalf of the respondent no.2.

3. The instant appeal has been filed by the appellant against the order dated 26.04.2023 passed by learned Additional Sessions Judge 1st cum Special Judge, Madhepura whereby the prayer for bail of the appellant in connection with Madhepura P.S. Case No. 33 of 2023 under Sections 365, 366, 376 of the



I.P.C. and Section 3(1)(w) of the SC/ST Act, was rejected.

4. As per prosecution case, the accusation against the accused persons including the present appellant is of taking away the Informant and her one year child at their house and committing rape with her and, thereafter, leaving the Informant at lonely place.

5. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case due to village politics and enmity. The appellant has no concern with the alleged occurrence. There is also no eye-witness to the alleged occurrence. The allegation of rape is not corroborated by the medical report as the Doctor has opined that there is no sign of recent intercourse present at the time of examination. He further submits that in the entire case diary, nothing has come against the appellant regarding his complicity in the alleged occurrence. The parties have also compromised the matter and have also filed compromise petition before the court below. Charge-sheet has been submitted in this case. Charge has also been framed. The appellant is in custody since 16.03.2023 and has one criminal antecedent in which he is on bail.

6. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant stating that



there is specific and direct allegation against the appellant and the victim in her statements made under Section 161 & 164 Cr.P.C. has also supported the prosecution case and, hence, the appellant does not deserve bail.

7. Considering the aforesaid facts and circumstances of the case, the period of custody undergone by the appellant as well as the medical report, not supporting the prosecution case, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 26.04.2023 passed by learned Additional Sessions Judge 1st cum Special Judge, Madhepura is hereby set aside.

8. Let the appellant, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Madhepura P.S. Case No. 33 of 2023, subject to the following conditions;

(i) One of the bailors shall be own/close member of the family of the appellant.

(ii) The appellant shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the appellant.



(iii) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(Rudra Prakash Mishra, J)

rishi/-

U		T	
---	--	---	--

