

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2699 of 2023

Arising Out of PS. Case No.-11 Year-2023 Thana- MAHILA PS District- Gaya

=====

Dinesh Yadav @ Dinesh Prasad Yadav Son Of Shibani Yadav Resident Of
Village - Maniyara, P.S.- Paraiya, District - Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Minti Devi Wife of Sujay Paswan Resident of village - Maniyara, P.S.-
Paraiya, District - Gaya.

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr.Sanjay Kumar
For the Respondent/s	:	Mr.Sadanand Paswan
For the Respondent No.	:	Mr. Shailesh Kumar

=====

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

4 18-01-2024 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 29.04.2023 passed by learned Exclusive
Special Judge, SC/ST, Gaya whereby the prayer for bail of the
appellant in connection with Mahila P.S. Case no. 11 of 2023
under Sections 376(d), 323, 373 of the Indian Penal Code and
sections 3(1)(r)(s)(w)(i) of SC/ST Act was rejected.

3. Allegation against the appellant along with other co-
accused persons is that they came at the house of the
victim/informant and this appellant was holding country made



pistol in his hand, put same on the head of the informant's husband. It is further alleged that on the order of appellant, the son of the appellant committed rape with the victim/informant and abused her by taking her caste name.

4. It is submitted by learned counsel for the appellant that appellant has been falsely implicated in this case due to village politics. He has not taken the caste name of the informant in public view. No offence is made out under the provisions of the SC/ST Act against him. It is further submitted that as per the statement in FIR as well as the re-statement of the victim which is in para-3 of the case diary, the allegation against this appellant is that he pointed pistol on the husband of the informant and his son committed rape with the victim whereas as per her statement recorded under Section 164 of the Cr.P.C. which is mentioned in para-21 of the case diary in which she stated that this appellant along with other co-accused persons have committed rape with her. Hence, there is major contradiction between the statements of the victim recorded under Section 164 of the Cr.P.C. and the statement made in the FIR and also re-statement of the victim. The age of the victim is also about 35 years as per the FIR which has been lodged by her. It is also submitted that there is no recent sign of sexual intercourse or rape as per the medical report which has been annexed in this petition. A statement has been made in



para-3 of this petition that the appellant has got no criminal antecedent. Moreover, he is languishing in judicial custody since 02.03.2023.

5. The appeal for bail is opposed by learned Spl. P.P. for the State and learned counsel for the informant and submitted that appellant is named in FIR.

6. Having heard learned counsel for the parties and taking into consideration that there is general and omnibus allegation against the appellant, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 29.04.2023 is hereby set aside.

7. The appellant is directed to be enlarged on bail in connection with Mahila P.S. Case No. 11 of 2023 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge, SC/ST, Gaya.

(Sunil Kumar Panwar, J)

Shubham/-

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

