

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3189 of 2023

Arising Out of PS. Case No.-77 Year-2021 Thana- MAHILA P.S. District- Muzaffarpur

JITENDRA PASWAN @ JITU PASWAN Son of Jagarnath Paswan Resident
of Village - Motipur, F.C.I. Godown, P.S. - Motipur, District - Muzaffarpur
... .. Appellant/s

Versus

1. The State of Bihar
2. NIRMALA DEVI Wife of Dharmendra Chaudhary Resident of Village -
Motipur, F.C.I. Godown, P.S. - Motipur, District - Muzaffarpur
... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Lal Babu Keshari, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

6 09-02-2024 Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

2. This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for regular bail vide order dated 24.05.2023 in Mahila P.S. Case No. 77 of 2021 passed by the learned Special Judge S.C./S.T. (POA) Act, Muzaffarpur registered under Sections 341, 342, 376(D) and 34 of the Indian Penal Code as well as Sections 3(i) W(i) of the SC/ST Act.

3. Learned counsel for the appellant submits that notices were issued on the opposite party no. 2 by order dated 01.12.2023 and from perusal of the service report, it would



manifest that the opposite party no. 2 on 10.01.2024 had received the notice personally. It is further submitted that despite receiving the notice on 10.01.2024, the opposite party no. 2 chooses not to appear.

4. Learned counsel for the appellant further submits that appellant is a person with clean antecedent and the informant alleges that she had gone to attend the call of nature when the accused persons including the appellant along with one unknown person came and took her in the house of Jagdish Sah and committed gang rape with her.

5. Learned counsel for the appellant next submits that no doubt the allegation appears to be serious but when the injury report of the informant is perused, it would manifest that no injury was found on the person of the injured. It is next submitted that if the informant was gang raped then definitely there had to be some sign of violence being committed on the body of the informant but then that is not the case.

6. Learned counsel also draws the attention of the Court to order dated 16.08.2023 in Cr. Appeal (SJ) No. 2840 of 2022 (Vikash Rai @ Vikash Kumar Vs. The State of Bihar & Anr.) to submit that in the said case the attention of the Court was drawn to paragraphs no. 16, 38, 39, 40, 41 and 42 of the



case diary to submit that the witnesses in one voice have stated that this informant is in habit of filing false cases against the innocent persons. It is further submitted that the attention of the Court was also drawn to paragraphs no. 41 and 42 of the case diary wherein statement of Renu and Shobha was recorded and they also did not support the case of the prosecution rather stated that the informant is in habit of threatening people of implicating them in false cases. Learned counsel next submits that this perhaps explains why the opposite party no. 2 despite receiving notice personally chooses not to appear and contest the case. Learned counsel also submits that Vikash Rai @ Vikash Kumar had moved this Court by filing Cr. Appeal (SJ) No. 2840 of 2022 seeking anticipatory bail which was allowed by an order dated 16.08.2023.

7. Learned counsel for the appellant, at this stage, draws the attention of the Court to para 12 of the memo of appeal to submit that the appellant also is a member of the scheduled castes and as such the provision of the SC/ST Act will not apply against him which amply demonstrates that the police never investigated the case fairly which led to taking of cognizance under the SC/ST Act even against the appellant.

8. Learned Special Public Prosecutor opposed the



prayer for bail of the appellant but is not in a position to rebut the submissions of the learned counsel for the appellant that Vikash Rai @ Vikash Kumar a similarly situated co-accused has already been granted the privilege of anticipatory bail and the injury report does not support the allegation as alleged by the informant.

9. In view of the submissions made by the learned counsel for the appellant, let the appellant, above named, be released on bail on furnishing bail bonds of Rs.5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of learned Court below where the case is pending in connection with the aforesaid case.

10. Accordingly, the impugned order is set aside and this appeal stands allowed.

(Satyavrat Verma, J)

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