

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3219 of 2024**

Arising Out of PS. Case No.-11 Year-2024 Thana- MAHILA PS District- Khagaria

Mohan Kumar SON OF SHIV NANDAN SAH Mohalla-NAC Road, Ward
no. 18, P.S.- Town Khagaria, Distt.- Khagaria

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. SUMAN KUMARI DAUGHTER OF VINAY KUMAR PASWAN
VILLAGE- DUMRI COLONY, PS- CHITRAGUPTA NAGAR, DIST-
KHAGARIA

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ranjeet Kumar Singh
For the Resp. No. 2	:	Mr. Sanjay Sinha
For the Respondent/s	:	Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

- 3 29-08-2024 Heard learned counsel for the appellant and learned
counsel for the respondent no. 2 as well as learned Special
Public Prosecutor 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 against the rejection of prayer for bail vide
order dated 14.06.2024 passed by the learned Additional
Sessions Judge Ist- cum- Special Judge, SC/ST (POA) Act,
Khagaria in B.A. No. 84 of 2024 arising out of Khagaria Mahila
P.S. Case No. 11 of 2024, G.R. No. 30/2024 dated 31.03.2024
registered for the offence/s punishable u/ss 376, 323, 341, 342,



324, 506 read with section 34 of the Indian Penal Code and 3(i) (r)(s) (w), 3(2) (v) of the SC/ST (Prevention Of Atrocities) Act.

3. As per the prosecution case, the appellant and the co-accused persons are alleged to have made physical relationship with the victim on the pretext of marriage and made video under conspiracy. They also assaulted the victim who sustained swelling and abrasion.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged occurrence. As per the FIR, no member of public was present at the relevant point of time of the alleged incident hence no case is made out under SC/ST Act. The victim is a major girl who knows the consequence of the act of the petitioner. Learned counsel has further submitted that the victim girl and the petitioner chose to have physical relationship with their own will. Learned counsel for the petitioner placed reliance on the judgment in the case of **Mandar Deepak Pawar Vs. State of Maharashtra & Anr. (Criminal Appeal No. 442 of 2022)** in which “a distinction was made between a false



promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but subsequently not fulfilled". The appellant has no criminal antecedent as stated in para 3 of the bail petition. The appellant is in custody since 01.04.2024. The victim is aged about 25 years who was a married lady at the time of the alleged occurrence.

5. Learned counsel for the respondent no. 2 as well as learned Spl. P.P. for the State has vehemently opposed the bail petition of the appellant. The petitioner's elder brother also committed rape on her.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 14.06.2024 passed by the learned Additional Sessions Judge Ist-cum- Special Judge, SC/ST (POA) Act, Khagaria in B.A. No. 84 of 2024 arising out of Khagaria Mahila P.S. Case No. 11 of 2024, G.R. No. 30/2024, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount



each to the satisfaction of the learned Additional Sessions Judge
Ist- cum- Special Judge, SC/ST (POA) Act, Khagaria in B.A.
No. 84 of 2024 arising out of Khagaria Mahila P.S. Case No. 11
of 2024, G.R. No. 30/2024. with the condition/s:-

(i) The appellant is directed to remain physically
present before the learned Court below on each and every date,
failing which on two consecutive dates without reasonable
cause, the bail bonds of the appellants are liable to be cancelled.

(Chandra Prakash Singh, J)

guddukr/-

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