

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3593 of 2024

Arising Out of PS. Case No.-342 Year-2024 Thana- FATUA District- Patna

Dhiraj Kumar Son Of Nakul Kumar @ Nakul Prasad Resident Of Village -
Machhariawan, Police Station - Fatuha, District - Patna

... .. Appellant/s

Versus

1. The State Of Bihar Bihar
2. Anjali Kumari Daughter Of Tunnu Ravidas Resident Of Village -
Machhariawan, Police Station - Fatuha, District - Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Manish Rai Sharma, Adv.
For the Respondent	:	Mr. Shashank Shekhar, Adv.
		Mr. Mukul Kumar, Adv.
For the Respondent/s	:	Mrs.Usha Kumari 1, Spl.PP

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

ORAL ORDER

2 05-09-2024 Heard learned counsel for the appellant, learned
counsel for the respondent no.2 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 against the rejection of prayer for bail of the appellant vide order dated 06.07.2024 passed by the learned Exclusive Special Judge (SC/ST Act), Patna arising out of Fatuha P.S. Case No. 342 of 2024 dated 09.06.2024 registered for the alleged offences punishable under Sections 341, 323, 376, 420, 504 of the Indian Penal Code and Sections 3(I)(r)(s)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the appellant is alleged to



have established physical relationship with the informant on the pretext of marriage.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. It is further submitted that no member of public was present at the relevant point of time of the incident and hence, no offence under provisions of SC/ST Act is made out against the appellant. The victim is a major girl aged about 21 years who knows the consequence of the act of the appellant. Learned counsel has further submitted that the victim girl and the appellant chose to have physical relationship of their own will. Learned counsel for the appellant 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 11.06.2024.

5. Learned Special Public Prosecutor for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for bail of the appellant.



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 06.07.2024 passed by the learned Exclusive Special Judge (SC/ST Act), Patna arising out of Fatuha P.S. Case No. 342 of 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 Exclusive Special Judge (SC/ST Act), Patna in connection with Fatuha P.S. Case No. 342 of 2024 with the condition :-

(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 prosecution will be at liberty to move for cancellation of his bail bond.

(Chandra Prakash Singh, J)

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