

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3833 of 2023**

Arising Out of PS. Case No.-13 Year-2023 Thana- MAHILA PS District- East Champaran

Akash Sah @ Akash Kumar Son Of Jiyalal Sah Resident Of Village
-JAGIRAHAN Bijbani, Ps- Jitna (GHORASAHAN), Distt- East Champaran

... .. Appellant/s

Versus

1. The State Of Bihar
2. Nitu Kumari Daughter Of Munna Baitha @ Harendra Baitha Resident Of
Village -JAGIRAHAN Bijbani, Ps- Ghorasahan, Distt- East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Abhishek Kumar
For the Respondent/s	:	Mr.Sadanand Paswan
For the Informant/s	:	Mr. Bhagya Narayan Jha

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

ORAL ORDER

3 15-03-2024 Heard learned counsel for the appellant and learned
counsel for the informant 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 against the refusal of prayer for anticipatory bail
vide order dated 27.06.2023 passed by the learned Special
Judge, SC/ST (POA) Act, East Champaran, Motihari in
connection with Mahila P.S. Case No. 13 of 2023 dated
16.03.2023 registered for the offence/s punishable u/s 376 and
420 read with 34 read with section of the Indian Penal Code and
Sections 3(i)(r)(s), 3(2) va of the SC/ST Act.



3. As per the prosecution case, the appellant and the co-accused persons are alleged to have kidnapped the minor daughter of the informant for the purpose of marriage.

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 alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the incident. There is no allegation of hurling of caste related abuse at the informant by the appellant. Learned counsel has further submitted that no particular caste name has been called by the appellant hence no case is made out under section SC/ST Act. The appellant has two more criminal antecedents as stated at para 3 of the bail petition. The victim in her statement recorded u/s 164 of the Cr.P.C has stated that she went to the house of her mother's sister and nobody has kidnapped her. It is further submitted that the victim was not forced to have illicit intercourse with another person.

5. Learned counsel for the informant as well as learned Spl. P.P. for the State has vehemently opposed the anticipatory bail petition of the appellant.

6. In view of the aforesaid facts and circumstances of the case as well as finding substance in the contention of learned counsel for the appellant, the impugned order dated 27.06.2023



passed by learned Special Judge, SC/ST (POA) Act, East Champaran, Motihari in connection with Mahila P.S. Case No. 13 of 2023, is set aside against the appellant. The criminal appeal is allowed.

6. Accordingly, the above named appellant, in the event of his arrest or surrender before the learned court below within a period of six weeks from today, be enlarged on anticipatory 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 Special Judge, SC/ST (POA) Act, East Champaran, Motihari in connection with Mahila P.S. Case No. 13 of 2023, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure, with further 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 appellant are liable to be cancelled.

(Chandra Prakash Singh, J)

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