

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4281 of 2024

Arising Out of PS. Case No.-14 Year-2024 Thana- SC/ST District- Gaya

Bablu Kumar Son of Devnath Prasad R/o Quarter No.12 Airport Campus,
P.S.- Magadh Medical College, Gaya, District- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. X Wife of Mr. Bablu Kumar, D/o Nagina Paswan R/o Village- Barhi Bigha,
P.S.- Gurua, District- Gaya at present Hawai Adda Gate No.2, Cherki Road,
P.S.- Magadh Medical, District- Gaya (Informant)

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate
	:	Mrs. Vaishnavi Singh, Advocate
	:	Mr. Ritwik Thakur, Advocate
For the State	:	Mr. Sadanand Paswan, Spl. PP
For the Respondent No.2:	:	Mr. Praveen Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

3 12-12-2024 Heard Mr. Ajay Kumar Thakur, learned counsel

for the appellant and Mr. Praveen Kumar, learned counsel

representing the respondent no.2 and learned Spl. PP for the

State.

2. The present appeal has been preferred for grant of
bail against the order dated 07.08.2024 passed by learned
Exclusive Special Judge, S.C./S.T., Gaya in SC/ST P.S.Case
No.14 of 2024 dated 04.04.2024 under sections 376, 504, 506 of
the Indian Penal Code and sections 3(i)(r)(s)(w), 3(2)(va) of the
SC/ST Act by which prayer for bail of the appellant was
rejected.



3. As per the prosecution story, the respondent no.2 filed a complaint before the Exclusive Special Judge SC/ST court, Gaya, alleging that the accused who is posted as Air Traffic Controller at Gaya Airport on the pretext of teaching her, as her mother used to work there, sexually assaulted in the garb of marriage. This relationship continued but later he refused to marry which led to lodging of Mahila P.S. Case No. 100 of 2022.

4. This forced the petitioner to marry her at Sri Vishnupad Temple on 17.01.2023 and they lived as couple for next eight months. In the meantime, he got the final form accepted before the court in the Mahila P.S. Case No. 100 of 2022 and thereafter, demanding dowry, she was forced out.

5. The allegation is that on 22.10.2023, the accused person which include his mother badly tortured her which led to the present case.

6. It is the case of the petitioner that earlier she lodged Mahila P.S. Case No. 100 of 2022 in which final form stands submitted. Later, vide Complaint Case No. 757 of 2023, a case was registered under section 498(A), 323 and 504 of the Indian Penal Code and section 3 of the Dowry Prohibition Act in which charge sheet has been submitted and cognizance has also been



taken.

7. It is his case that once the petitioner claiming herself as his wife, a complaint was lodged under section 498(A) of the Indian Penal Code and other sections, the present case which has been lodged under section 376 and the other sections of Indian Penal Code as also different sections of SC/ST is nothing but an abuse of the process of law, even if the present case is not for quashing of the said case. He has remained in custody since 05.08.2024, is a Central Government Employee, if granted bail, he shall be abiding all the terms and conditions and will be diligently appearing in trial.

8. Learned counsel appearing on behalf of the respondent no.2 on the other hand opposes the prayer submitting that the petitioner has played hide and seek inasmuch as earlier he sexually assaulted her, once a case was lodged vide Mahila P.S. Case No. 100 of 2022, he relented, married her at Sri Vishnupad Temple Gaya, they remained as a couple for eight months and once he managed final form in the said case, she was tortured and thrown out. As such, he does not deserve bail.

9. Having gone through the facts of the case, the materials on record and the submissions put forward by the parties, once the court has taken cognizance under section



498(A) of the Indian Penal Code on the complaint filed by the respondent no.2, the subsequent case under section 376 of the Indian Penal Code filed by her has to be looked with suspicion. This in the background of the fact that earlier under same section, a final form already stands submitted and accepted by the Court of Law after taking notice of the statement made by the complainant that they are living together as wife after solemnization of marriage with the accused and she has no grievance.

10. The appellant has already remained in custody since 05.08.2024, is a Central Government Employee, residing in a government quarter at Gaya Airport, the law will take its own course, for the present for grant of bail, taking into account all the aforesaid facts, this Court is inclined to extend him the privilege of bail.

11. Accordingly, the order dated 07.08.2024 passed by learned Exclusive Special Judge, SC/ST, Gaya in connection with SC/ST P.S. Case No. 14 of 2024 is set aside and the appeal stands allowed.

12. Let the appellant be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of like amount each to the satisfaction of learned Exclusive Special



Judge, SC/ST, Gaya in connection with SC/ST P.S. Case No. 14 of 2024, subject to the following conditions:

(i) one of the bailor should be the family member/relative of the appellant who shall provide official document to show his *bona fide*;

(ii) the appellant shall appear on each and every date before the Trial Court failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial Court itself;

(iii) the appellant shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the appellant shall desist from committing any criminal offence again, failing which the State shall be at liberty to take steps for cancellation of bail bonds.

(Rajiv Roy, J)

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