

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4763 of 2023

Arising Out of PS. Case No.-69 Year-2023 Thana- MUSRIGHRARI District- Samastipur

ANUBHAV KUMAR S/O SONELAL MALAKAR @ SONELAL BHAGAT
R/O VILLAGE- BISHAMBHARPUR AILOTH, P.S- MUSARIGHARARI,
DISTT.- SAMASTIPUR.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Nagmani Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. PP
For OP 2	:	Mr. Bijay Bhushan Prasad , Advocate Swati Kumari , Advocate

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 16-05-2024 Heard learned counsel for the parties.

2. This appeal has been filed for setting aside order dated 25.05.2023 , passed in a case registered for the offence punishable under sections 341, 323, 354B, 376, 504, 506 and 34 and other allied sections of the Indian Penal Code and sections 3(i)(r)/3(1)(s), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (POA) Act, whereby the prayer for anticipatory bail of the appellant has been rejected.

3. As per the prosecution case, on the false promise of marriage, this appellant is alleged to have procured sexual intercourse with the informant, due to which she became



pregnant. It is further alleged that the appellant has also made naked video of the informant and threatened to make viral the same. It is further alleged that when the informant got pregnant, the appellant pressurized her to abort, but later on she gave birth to a male child. After the birth of the child, a *panchayati* was held, and it was decided that the appellant would have to execute two *kattha* plots in favour of the informant and also Rs. 7,500/- to be given to the informant every year for the maintenance of the child.

4. It is submitted on behalf of the appellant that from bare perusal of the F.I.R., it is apparent that at the time, when relationship developed between the parties, they were major. Both of them enjoyed each other's company for a long time and indulged in sexual act. The relationship was consensual and the same cannot be said to be induced or involuntarily. Simply because the relationship does not work, that cannot be the ground to lodge F.I.R., under Section 376 of IPC against the appellant. There is no allegation of abuse by caste name, as such, no case under SC/ST Act is made out against this petitioner. Appellant claims clean antecedent.

5. Learned counsel for the respondent No. 2 opposes the prayer for bail.



6. Considering the aforesaid facts, this appeal is allowed with respect to this petitioner only and the impugned order is set aside. Let the appellant, named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/St(POA) , Samastipur in connection with Musrigharari Police Station Case No. 69 of 2023 .

(Prabhat Kumar Singh, J)

Koushik/Ankit-

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