

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4880 of 2023

Arising Out of PS. Case No.-40 Year-2023 Thana- MAHILA PS District- Buxar

Jay Prakash Upadhyay @ Jai Prakash Upadhyay S/O Sri Lal Bihari
Upadhyay Village- Baluwa P.O. Kamarpur, Ps. Buxar (Muffasil), Dist. Buxar

... .. Appellant/s

Versus

1. The State of Bihar
2. Anita Devi W/O Anil Kumar Ram Village-Baluwa, P.O. Kamarpur, Ps. Buxar (Muffasil), Dist. Buxar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anil Kumar Roy
For the Respondent/s : Mr. Binay Krishna

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

3 12-01-2024 Heard learned counsel for the appellant, learned counsel for the informant and learned Special Public Prosecutor for the State.

2. The instant appeal has been filed by the appellant against the order dated 26.09.2023 passed by learned Additional Sessions Judge-I-cum-Special Judge SC/ST (POA) Act, Buxar whereby the prayer for bail of the appellant in connection with Buxar (Mahila) P.S. Case no. 40 of 2023 under Sections 376, 420 and 506 of the Indian Penal Code and sections 3(i)(r)(s)(w) (i)(ii) and 3(2)(va) of the SC/ST Act along with Section 67A of the I.T. Act was rejected.

3. As per allegation in the FIR, six years ago



informant had enticed the informant on false promise of benefits of government schemes and he grabbed her all documents and started to blackmail her for making physical relationship. It is further alleged that appellant took the informant to Rajasthan and established physical relationship with her.

4. It is submitted by learned counsel for the appellant that appellant has been falsely implicated in this case. Informant is a mature lady of 35 years and appellant had established consensual relationship with the victim/informant. He has not taken the cast name of the informant in public view. No offence is made out under the provisions of the SC/ST Act against him. Appellant has got no criminal antecedent and languishing in judicial custody since 26.08.2023.

5. The appeal for bail is opposed by learned Spl. P.P. for the State and learned counsel for the informant and submitted that statement of the victim girl was recorded u/s 164 Cr.P.C. in which she has made direct allegation of sexual assault against the appellant. Appellant had also taken the objectionable photos and videos of the informant and uploaded it on social media.

6. Having heard learned counsel for the parties and taking into consideration that there is general and omnibus



allegation against the appellant, the Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 26.09.2023 is hereby set aside.

The appellant is directed to be enlarged on bail in connection with Buxar (Mahila) P.S. Case No. 40 of 2023 on furnishing bail bond of Rs. 10,000/- (Rs. ten thousand only) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge 1-cum-Special Judge SC/ST (POA) Act, Buxar.

(Sunil Kumar Panwar, J)

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