

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5315 of 2023**

Arising Out of PS. Case No.-467 Year-2022 Thana- BRAHMPUR District- Buxar

=====

AMOL YADAV @ AMAL YADAV S/O KASHINATH YADAV VILLAGE-
HITAN PADRI, PS. BUXAR (O.P) DIST. BUXAR.

... .. Appellant/s

Versus

1. The State of Bihar
2. PARMANAND PASWAN S/O MUKHRAM PASWAN VILLAGE-
CHHAKIBISASER DERA, PS. BRAHAPUR, DIST. BUXAR.

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Ms.Dimpal Kumari, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

=====

**CORAM: HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA**

ORAL ORDER

3 21-03-2024 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. The instant appeal has been filed by the appellant against the order dated 18.10.2023 passed by learned 1st Additional District and Sessions Judge-cum-Special Judge, SC/ST(POA), Buxar whereby the prayer for bail of the appellant in connection with Brahmpur Chakki P.S. Case no.467 of 2022 under Section 365 of the Indian Penal Code but charge sheet submitted under Sections 366, 376 and 313 of the I.P.C. and Sections 3(i)(r)(w)/ 3(ii)(v)of SC/ST (POA) Act was rejected.

3. As per F.I.R., the allegation against the appellant is that he abducted the daughter-in-law of the informant.



4. It is submitted by learned counsel for the appellant that appellant is innocent and has committed no offence. He has been falsely implicated in this due to village politics. The date of occurrence is 21.06.2022 but the F.I.R. has been lodged after the delay of four days i.e. on 25.06.2022 without any reasonable explanation. The allegation levelled against the appellant is false and concocted. He has not taken the caste name of the informant in public view. Hence, no offence is made out under the provisions of the SC/ST Act against him. The appellant has got no criminal antecedent and he is languishing in judicial custody since 27.08.2023.

5. The appeal for bail is opposed by learned Spl. P.P. for the State.

6. From perusal of the F.I.R., case diary and statement of the victim recorded u/s 164 of Cr.P.C., it appears that petitioner is not named in the F.I.R. and on the basis of written report of informant F.I.R. registered against the unknown u/s 365 of the I.P.C. The name of the appellant transpired during investigation when the victim was recovered and her statement was recorded u/s 164 of the Cr.P.C. by the learned Magistrate. It also appears that investigation is already concluded and the Investigating Officer found the case true under Sections 366,



376 and 313 of the I.P.C. and Sections 3(i)(r)(w)/ 3(ii)(v) of SC/ST (POA) Act. On perusal of the statement of victim recorded u/s 164 Cr.P.C., it is clear that victim is a major and married lady she has not stated about any sexual assault and physical misbehave against the appellant. She has only alleged against the appellant that he taken away her from the house of victim. Considering the facts and circumstances of the case and the period of custody of the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 18.10.2023 is hereby set aside.

7. Let the appellant be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional District and Sessions Judge-cum-Special Judge, SC/ST (POA), Buxar in connection with Brahampur (Chakki O.P.) P.S. Case No.467 of 2022.

(Ramesh Chand Malviya, J)

lata/-

U		T	
---	--	---	--

