

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5506 of 2023

Arising Out of PS. Case No.-189 Year-2013 Thana- ALAMNAGAR District- Madhepura

Kharsing Yadav @ Khar Singh Yadav son of Buchkun Yadav Resident of
Village- Khapur, P.S.- Alamnagar (Ratwara O.P.) District- Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Rekha Devi wife of Vedprakash Rajak Resident of Village- Khapur, P.S.-
Alamnagar (Ratwara O.P.) District- Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Pawan Kumar, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

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

ORAL ORDER

3 04-04-2024 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 22.09.2023 passed by learned Additional Sessions Judge 1st-cum-Special Judge, Madhepura whereby the prayer for bail of the appellant in connection with Alamnagar (Ratwara O.P.) P.S. Case no.189 of 2013 under Sections 376, 452, 341, 323, 504 of the Indian Penal Code and Sections 3(I)(XII) of SC/ST Act was rejected.

3. As per F.I.R., the allegation against the co-accused, namely, Mukund Yadav is that he entered in the house of the informant and committed rape upon her daughter. It is further



alleged that after the occurrence the appellant and co-accused persons came at her house and also assaulted and abused her by taking her caste name.

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 case due to previous enmity and dirty village politics. 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. There is no specific allegation of rape against the appellant rather the specific allegation is against co-accused Mukund Yadav and he has already been acquitted in this case. Similarly situated co-accused namely, Bablu Yadav @ Jitendra Kumar has been granted bail by this Court vide order dated 01.02.2024 passed in Cr. Appeal (SJ) No. 267 of 2024. The appellant has got no criminal antecedent and he is languishing in judicial custody since 23.08.2023.

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 the Cr.P.C., it appears that no specific allegation of rape or any sexual assault against the



appellant. The specific allegation is against co-accused Mukund Yadav and he has already been acquitted by the trial court in Sessions Trial No. 12 of 2015 from the Court of Additional Sessions Judge Ist-cum-Special Judge, S.C./S.T. Act, Madhepura. Considering the facts and circumstances of the case and period of custody of the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and the impugned order dated 22.09.2023 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 Additional Sessions Judge 1st-cum-Special Judge, Madhepura in connection with Alamnagar (Ratwara O.P.) P.S. Case No.189 of 2013.

(Ramesh Chand Malviya, J)

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