

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5643 of 2023

Arising Out of PS. Case No.-510 Year-2023 Thana- SIKARPUR District- West Champaran

VIKASH CHAUDHARY @ VIAKSH KUMAR @ VIKASH KUMAR S/O
LATE ASHOK CHAUDHARI R/O WARD NO.-4, VILLAGE-
DHANKUTAWA, P.S- SHIKARPUR, DISTT.- WEST CHAMPARAN.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. KALAVATI DEVI W/O DABLU PASWAN R/O WARD NO.-4, VILLAGE-
DHANKUTAWA, P.S- SHIKARPUR, DISTT.- WEST CHAMPARAN.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Vatsal Verma, Adv.
For O.P. No. 2	:	Mr. Avinash Raj, Adv.
For the State	:	Mr.Binay Krishna, Spl. PP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 09-05-2024 Heard learned counsel for the appellant, learned counsel
for the informant and learned Spl. P.P. for the State.

2. This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the rejection of prayer of bail of the appellant vide order dated 12.10.2023 in Bail Petition No. 4262/ 2023 passed by the learned Additional District & Sessions Judge- Ist cum Special Judge, SC/ST Act, Bettiah, West Champaran in connection with Shikarpur P.S. Case No. 510 of 2023 dated 18.06.2023 registered for the alleged offences punishable under Sections 376 and 120B of the Indian Penal Code and Sections 3(1)(r)(s)/ 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. As per prosecution case, the appellant is alleged to have mixed some intoxicated material in sweets and the informant became



unconscious then the appellant established physical relationship with her and even got a video of the occurrence recorded with the help of her sister. Thereafter, the accused persons threatened the informant, if she disclosed to anyone about the said occurrence then her video would be made viral. Thereafter, the husband of the informant and her relatives went to the place of accused persons to confront them, the accused persons abused them by calling their caste name. The accused persons also assaulted them.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case due to land dispute. There is a land dispute between the parties. There is general and omnibus allegation of abusing against the appellant and no member of public was present at the relevant point of time of the incident and hence, no offence under provisions of SC/ST Act is made out against the appellant. As per the medical report of the victim, the doctor opined that there was no recent sign of sexual intercourse. It is further submitted that the appellant has no concern with the alleged offence. The appellant is in custody since 18.08.2023. The appellant has clean antecedent as stated in para 3 of the bail petition.

5. Learned Special Public Prosecutor for the State as well as learned counsel for the respondent no. 2 have opposed the prayer for bail of the appellant.

6. In view of the aforesaid facts and circumstances of the



case as well as finding substance in the contention of the learned counsel for the appellant, the impugned order dated 12.10.2023 in Bail Petition No. 4262/ 2023 passed by the learned Additional District & Sessions Judge-Ist cum Special Judge, SC/ST Act, Bettiah, West Champaran in connection with Shikarpur P.S. Case No. 510 of 2023, is set aside against the appellant. The criminal appeal is allowed.

7. Accordingly, the above named appellant, is directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Additonal District & Sessions Judge-Ist cum Special Judge, SC/ST Act, Bettiah, West Champaran in connection with Shikarpur P.S. Case No. 510 of 2023 with the condition :-

(i) The appellant is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail bond.

(Chandra Prakash Singh, J)

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