

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.10 of 2024**

Arising Out of PS. Case No.-475 Year-2023 Thana- SHERGHATI District- Gaya

Rajendra Yadav SON OF BIR BAHADUR YADAV RESIDENT OF
VILLAGE- DHABCHIRIYA, PS- SHERGHATI, DIST- GAYA

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. SARITA DEVI DAUGHTER OF MATHURA CHAUDHARY RESIDENT
OF VILLAGE- CHUJI TOLA, BAGIHDIH, PS- SHERGHATI, DISTT-
GAYA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Priya Ranjan
For the Respondent/s : Mr.Binay Krishna
For the Informant : Mr. Advocate

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

ORAL ORDER

4 24-04-2024 Heard learned counsel for the appellant and

learned Special P.P. for the State as well as learned counsel for
the respondent no.2/informant, on point of admission and on
merit also.

2. The appellant has preferred the present
appeal under Section 14A(2) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, 1989
(hereinafter referred to as the “SC/ST Act”) against the refusal



of prayer for bail vide order dated 02.12.2023 passed by the learned Exclusive Special Judge (SC/ST Act), Gaya in connection with Sherghati P.S. Case No.475 of 2023 registered under Sections 448, 379, 323, 354B, 376 of Indian Penal Code and Section 3(i)(r)(s) of SC/ST Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. The appellant is named in F.I.R. and is in custody since 06.11.2023.

5. The allegation against the appellant is to have assaulted the informant by means of wrench and also tried to disrobe the victim.

6. Learned counsel for the appellant submitted that the appellant has falsely been implicated in the present case. It is also submitted that there is no allegation as regard to rape in the FIR, where, allegation has been levelled against this appellant committed attempt to rape. It is also submitted that from bare perusal of FIR, it appears that there is no overt act against the appellant, which attracts atrocities within the meaning of the SC/ST Act. It is also submitted appears from statement of victim as recorded under Section 164 of the Cr.P.C. that nothing stated about committing rape on previous occasion.



It is further submitted that appellant is a man of clean antecedent. While concluding the argument, it is also submitted that investigation has been completed, for which, charge-sheet has already been submitted in this case, as such, there is no chance of tampering with the evidence.

7. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in *State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276*.

8. Learned Special P.P. for the State duly assisted by learned counsel for the Respondent No.2/Informant opposes the prayer for bail of the appellant.

9. In view of the submissions, as made above and as as there is contradiction between statement of victim as recorded under Section 161 and 164 of the Cr.P.C. and this appellant is a man of clean antecedent, let the appellant, above named, is directed to be released on bail in connection with Sherghati P.S. Case No.475 of 2023 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Act, Gaya.



10. Accordingly, impugned order dated 02.12.2023 is set aside.

11. Hence, appeal stands allowed.

(Ramesh Chand Malviya, J)

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