

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.157 of 2024

Arising Out of PS. Case No.-158 Year-2023 Thana- JALALGARH District- Purnia

MD. FIROJ SON OF MD. TAHIR @ TAHIR HUSSAIN R/O VILLAGE-
MADHAILI TOLA DIMIA, GAIRAH, P.S.- JALALGARH, DIST.-
PURNEA

... .. Appellant/s

Versus

1. THE STATE OF BIHAR PATNA
2. MAMTA DEVI WIFE OF PARWEEN KUMAR R/O VILLAGE- DIMIA
TOLA - MADHAILI, P.S.- JALALGARH, DIST.- PURNEA

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N. K. Agrawal, Sr. Advocate Mr. Nadimul Hasan
For the Respondent/s	:	Mrs. Usha Kumari 1

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

ORAL ORDER

3 02-05-2024 Heard learned counsel for the appellant and learned
counsel for the informant as well as learned Special Public
Prosecutor 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 (hereinafter in short referred to as the
SC/ST Act) against the refusal of prayer of bail *vide* order dated
05.12.2023 passed by the Special Judge, SC/ST Act, Purnea in
connection with Jalalgarh P.S. Case No. 158 of 2023, registered
for the offence/s punishable u/s 376/506 of the Indian Penal
Code and Section 3(1) (w)(I) of the SC/ST Act.



3. As per the prosecution case, the appellant is alleged have committed rape on the victim on the point of katta and also threatened to make her photos viral on social media.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no particular caste name has been called by the appellant hence no case is made out under section SC/ST Act. The appellant has no criminal antecedent as stated at para 3 of the bail petition. From perusal of the medical report, no mark of injury was seen anywhere over the body. No spermatozoa was detected in the vaginal secretion. The age of the victim is assessed as about 22 years. As per opinion of the doctor, the victim is sexually active woman. The occurrence took place on 12.08.2023 and the F.I.R. was lodged on 21.08.2023 after delay of 9 days and there is no plausible explanation for the same. The appellant is in custody since 04.11.2023.

5. Learned counsel learned Spl. P.P. for the State as well as learned counsel for the respondent no. 2 have vehemently opposed the prayer of bail.

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 05.12.2023 passed by the learned Special Judge, SC/ST Act, Purnea in connection with Jalalgarh P.S. Case No. 158 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 Special Judge, SC/ST Act, Purnea in connection with Jalalgarh P.S. Case No. 158 of 2023.

(Chandra Prakash Singh, J)

Ranjeet/-

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