

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1255 of 2024

Arising Out of PS. Case No.-50 Year-2021 Thana- SC/ST District- East Champaran

Shivam Kumar Shrivastava Son of Satis chandr Shrivastav @ Satish Chandra Shrivastava Resident of vill.-Kalupakar, P.s.-Fenhara/Phenhara, Distt.-East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Sarswati Devi Wife of Kameshwar Paswan Resident of vill.-Kalupakar, P.s.-Fenhara/Phenhara, Distt.-East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Kundan Rathore- Advocate
For the State	:	Ms. Usha Kumari 1- Spl. P.P.
For the Informant	:	None

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 3 17-09-2025 1. Heard learned counsel for the appellant and the learned Special Public Prosecutor for the State.
2. No one appears on behalf of the respondent no.2.
3. The appellant has challenged the order dated 09.01.2024 passed by the learned Special Judge SC/ST Act, East Champaran at Motihari in ABP No.6172 of 2023, Trial No.101 of 2023 arising out of SC/ST P. S. Case No.50 of 2021, instituted for the offences under Sections 341, 323, 354, 379, 504, 506, 34 of the Indian Penal Code and Sections 3(i)(r)(s), 3(w)(i), 3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, but the learned District Court took cognizance under Section 323 of the I.P.C. and Section



3(1)(r) and 3(1)(s) of the SC/ST (POA) Act, whereby his prayer for grant of anticipatory bail has been rejected.

4. The learned counsel appearing on behalf of the appellant submits that appellant is a person with clean antecedent. It is next submitted that sister of the appellant had instituted Phenara P. S. Case No.152 of 2021 dated 13.11.2021 alleging that son of the instant informant along with his family members came to her house and assaulted the family members and even disrobed her mother. Further, the son of the present informant namely Rupesh Paswan dragged her to her house and attempted to commit rape when the newly elected Sarpanch came and the matter was pacified.

5. The learned counsel appearing on behalf of the appellant submits that the instant FIR instituted by mother of Rupesh namely Saraswati Devi has been instituted by way of counter-blast to Phenara P. S. Case No. 152 of 2021. It is next submitted that from perusal of the allegation as alleged in the instant FIR, it would manifest that the date of occurrence is 12.11.2021 and the FIR came to be instituted on 06.12.2021 i.e. after a delay of 24 days without any plausible explanation which cast an aspersion on the case of the prosecution, when the FIR instituted by the sister of the present appellant is dated



13.11.2021. It is next submitted that from perusal of the allegation as alleged in the instant FIR, it would manifest that the informant alleges that her son Rupesh had gone to meet one Srivastava for seeking his dues for labour rendered, but the amount was not given and he was abused by caste name and was dragged on the road by Shivam Kumar, son of Satish Chandra and thereafter, other named accused persons came and assaulted him and even addressed him by his caste name. It is reiterated and submitted that the date of occurrence 12.11.2021 and the FIR came to be instituted on 06.12.2021, which amply demonstrates that the instant FIR was instituted only to coerce the appellant and his family members into submission as sister of the appellant had earlier instituted the aforesaid Phenara P. S. Case No. 152 of 2021.

6. The learned Special P. P. opposes the anticipatory bail application.

7. Regard being had to the aforesaid submissions, the order dated 09.01.2024 is set-aside.

8. The appeal stands allowed.

9. The appellant, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his



furnishing bail-bonds in the sum of Rs.5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge SC/ST Act, East Champaran at Motihari in ABP No.6172 of 2023, Trial No.101 of 2023 arising out of SC/ST P. S. Case No.50 of 2021, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

(Satyavrat Verma, J)

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