

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1355 of 2025

Arising Out of PS. Case No.-394 Year-2024 Thana- PALASI District- Araria

Kamal Kishore Yadav Son of Gatan Lal Yadav Resident of Hasanpur, Ward
No. 10, P.S. - Palasi, District - Araria, Bihar

... .. Appellant/s

Versus

1. The State of Bihar
2. Ujala Kumari Daughter of Jiwan Lal Manjhi Resident of Kankhudiya, Ward
No. 02, P.S. - Palasi, District - Araria, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vasant Vikas, Advocate
For the Respondent/s : Ms. Usha Kumari 1, SPP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 26-06-2025 Heard learned counsel for the appellant, learned Special

Public Prosecutor for the State and learned counsel for the

informant.

2. The instant appeal has been filed by the appellant

against the order dated 30-01-2025 passed by learned Additional

Sessions Judge-I-cum-Special Judge, Araria whereby the prayer

for bail of the appellant in connection with Palasi PS Case No.

394 of 2024 under Sections 126(2), 115(2), 64(1), 89, 352 &

3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(i)(r),

3(i)(s) & 3(2)(v) of SC/ST Act was rejected.

3. The informant alleged that petitioner developed

physical relations with her on the false promise of marriage,



resulting in a forced abortion. On 02.11.2024, he, along with an associate, kidnapped and sexually assaulted her near Inara Chowk. When the matter was raised with his family, they abused the informant and refused to acknowledge the issue even in the village panchayat.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. Learned counsel for the appellant submits that from perusal of the FIR, it would manifest that appellant and the informant was in love affairs for the last three years. Learned counsel for the appellant submits that informant is major and the sexual relationship so established was consensual in nature. Learned counsel for the appellant submits that though victim in her statement recorded under Section 183 of the BNSS, 2023 has whispered against the petitioner, but the same is falsified by the medical report, wherein it is opined that there is no sign of fresh sexual assault. Learned counsel for the appellant submits that police after completion of investigation has submitted charge sheet under Section 69 of the Bharatiya Nyaya Sanhita, 2023 and Section 3(2) of the SC/ST Act. Learned counsel for the appellant further submits that the appellant has not taken the caste name of the informant in public view. Hence, no offence



under the provisions of SC/ST Act is made out against him. The appellant has no intention to disgrace the image of the informant in public view. The appellant is in custody since 21-01-2025 and has no criminal antecedent.

5. Learned Special P.P. for the State and the informant have vehemently opposed the prayer for grant of bail to the petitioner. It is submitted that victim has supported the prosecution case in her statement recorded under Section 183 of the BNSS, 2023.

6. Considering the aforesaid facts and circumstances of the case, informant being major and the sexual intercourse so established, was consensual in nature and the period of custody undergone by the petitioner, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 31-01-2025 passed by Additional Sessions Judge-I-cum-Special Judge, Araria 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 Court below/concerned Court in connection with Palasi PS Case No. 394 of 2024, subject to the following conditions:

(I) One of the bailors shall be own/close member of the



family of the appellant.

(II) The appellant shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the appellant.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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