

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1498 of 2024

Arising Out of PS. Case No.-22 Year-2023 Thana- MAHILA P.S. District- Saran

NITESH KUMAR RAI @ NITISH KUMAR RAI SON OF JITENDRA PRASAD RAY RESIDENT OF VILLAGE - MADARPUR, P.S. - BHELDI, DISTRICT - SARAN

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. MAMTA KUMARI DAUGHTER OF SRI LALDEO RAM RESIDENT OF VILLAGE - MADARPUR, P.S. - BHELI, DISTRICT - SARAN

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agrawal, Sr. Advocate Mr. Kumar Gaurav, Advocate Mr. Kumar Rajdeep, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl.PP
For the Resp No. 2	:	Mr. Rajesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

8 03-07-2025 Heard learned counsel for the appellant and learned counsel for the respondent no. 2 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 against the rejection of prayer for bail vide order dated 28.02.2024 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Saran in connection with Saran Mahila P.S. Case No. 22 of 2023 dated 20.04.2023 registered for the offence/s punishable u/ss 323, 504, 506, 376 of the Indian



Penal Code and 3(1)(r)(s) / 3(1)(w)(ii), 3(2) (v) of the SC/ST (POA) Act and section 67 of the IT Act.

3. As per the prosecution case, the allegation against the appellant is that he had made sexual assault upon the victim and threatened her to make her obscene photos and videos viral.

4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. Learned counsel has further submitted that the caste name was not disclosed by anyone at the time of the alleged occurrence. As per FIR, no member of public was present at the relevant point of time of the alleged incident hence no case is made out under SC/ST Act. It is further submitted that the occurrence took place in the year 2020 and the FIR was lodged on 20.04.2023, after a delay of about three years and there is no explanation regarding the delay which creates serious doubt about the prosecution case. It is further submitted that the FIR was lodged on 20.04.2023 and the victim was examined medically on 01.05.2023. As per the medical report, the age of the victim is about 22 years, she is not pregnant and there is no evidence of recent sexual intercourse. The appellant has two criminal criminal antecedents as stated in para 3 of the bail petition. The appellant is in custody since



09.02.2024.

5. Learned counsel for the respondent no. 2 as well as learned Spl. P.P. for the State has vehemently opposed the bail petition of the appellant by submitting that there is specific allegation against the appellant of committing rape on the victim. The victim in her statement recorded u/s 164 of the Cr.P.C. has also supported the prosecution case.

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 28.02.2024 passed by the learned Exclusive Special Judge, SC/ST (POA) Act, Saran in connection with Saran Mahila P.S. Case No. 22 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 Exclusive Special Judge, SC/ST (POA) Act, Saran in connection with Saran Mahila P.S. Case No. 22 of 2023, with the condition/s:-

(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 bail bonds of the appellants are liable to be cancelled.

(Chandra Prakash Singh, J)

guddukr/-

U		T	
---	--	---	--

