

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1619 of 2025

Arising Out of PS. Case No.-177 Year-2024 Thana- KASHICHAK District- Nawada

Rahish Kumar S/o Kameshwar Yadav Resident of Village- Birnama, Police
Station- Pakari Barawan, Distt.-Nawada

... .. Appellant/s

Versus

1. The State of Bihar
2. Shimpy Kumari D/o Krishna Manjhi R/o Vill.- Birnama Tola Harihar Bigha,
P.S.- Kashichak, Distt.-Nawada

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Prem Ranjan Kumar, Advocate Mr. Saurav Kumar Suman, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. P.P.
For the Respondent no. 2:	:	Mr. Arjun Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL ORDER

5 18-12-2025 Heard learned counsel for the appellant, respondent
no. 2 and learned Spl. P.P. 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 referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 19.03.2025 in B.P. No. 386 of 2025 arising out of Kashichak P.S. Case No. 177 of 2024 passed by the learned Exclusive Special Judge S.C./S.T. (POA) Act, Nawada in connection with Kashichak P.S. Case No. 177 of 2024 registered for the offences punishable under Sections 126, 115 (2), 118 (1), 64, 62, 76 and 352 of the BNS and also under



Section 8 of the POCSO Act as also Section (3) (1) (r) (s) of the SC/ST (Prevention of Atrocities) Act.

3. The case of the prosecution, in short, is that while the respondent no. 2 was returning after harvesting the paddy crop, the appellant, who was allegedly hiding in the paddy field, dragged her, closed her mouth with his hand, knocked her down in the field and attempted to commit rape. It is further alleged that when the respondent no. 2 attempted to rescue herself, the appellant assaulted her with a '*hasua*' causing a cut injury on her hand. It is further alleged that when the informant raising alarm, the appellant fled away, abusing the respondent no. 2 (victim) by taking her caste name.

4. Learned counsel for the appellant submits that the appellant has been falsely implicated in the instant case. It is further submitted that from a perusal of the FIR, it is clear that the occurrence took place on 10.11.2024 whereas the First Information Report (FIR) was lodged on 14.11.2024. During the course of investigation, the respondent no. 2 gave her statement under Section 183 of the BNSS, wherein she stated that after knocking her down, the appellant inserted his finger into her private part due to which she started crying. Thereafter, her mother arrived at the spot and the appellant fled away while



abusing her by taking her caste name.

5. Learned counsel for the appellant submits that from perusal of the paragraph-6 of the case diary, the father of the victim has stated that the appellant attempted to commit rape and assaulted the victim with a '*hasua*' blow, however no injury report has been brought on record. It is contended that the victim has developed the prosecution story in her statement under Section 183 of the BNSS. As per the FIR, there is an allegation of attempt to commit rape whereas in her statement under Section 183 of the BNSS, the allegation is of insertion of finger in her private part. It is further contended that no medical examination of the victim was conducted which casts serious doubt on the persecution version. It is also contended that the provisions of SC/ST Act are not attracted in the present case, as the alleged occurrence did not take place in a public place. Moreover the appellant has been languishing in judicial custody since 19.12.2024.

6. Learned Spl. P.P. for the State vehemently opposes the appeal and has submitted that the statement of the victim recorded under Section 183 of the BNSS itself establishes the appellant guilty for the alleged offence.

7. In view of the submissions made by the learned



counsel for the appellant, the order dated 19.03.2025 in B.P. No. 386 of 2025 arising out of Kashichak P.S. Case No. 177 of 2024 passed by the learned Exclusive Special Judge S.C./S.T. (POA) Act, Nawada in connection with in B.P. No. 386 of 2025 arising out of Kashichak P.S. Case No. 177 of 2024 is hereby set aside and the appellant above-named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Judge S.C./S.T. (POA) Act, Nawada in connection with in B.P. No. 386 of 2025 arising out of Kashichak P.S. Case No. 177 of 2024.

8. Accordingly the appeal stands allowed.

(Ashok Kumar Pandey, J)

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