

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2889 of 2024

Arising Out of PS. Case No.-245 Year-2023 Thana- MADANPUR District- Aurangabad

Kamlesh Mahto @ Kamlesh Kumar S/O Late Pratap Mahto Resident Of
Village- Ghorahat (Pathak Bigha), P.S.- Madanpur, District-
Aurangabad(Bihar).

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Kumar Pandey, Advocate

For the Respondent/s : Mr. Sadanand Paswan, SPP

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

ORAL ORDER

4 18-01-2025 Heard learned counsel for the appellant, learned Special
Public Prosecutor for the State and learned counsel for the
informant. Despite issuance of notice, none appears for the
informant. Perused the case diary.

2. The instant appeal has been filed by the appellant
against the order dated 20-05-2024 passed by learned ADJ-1st
Aurangabad whereby the prayer for bail of the appellant in
connection with Madanpur PS Case No. 245 of 2023 instituted
under Sections 363, 365 of the IPC (later on, Section 376 of the
IPC was added) and Sections 3(1)(r)(s)(w)(i)(ii), 2(va) of SC/ST
Act was rejected.

3. Prosecution case, in short, is that appellant took
daughter of the informant, to his house for domestic work, but



she never returned. On May 31, 2023, the appellant informed via phone that victim was with him and would return soon. However, when the informant's went to the appellant's house to inquire, whereafter, the accused allegedly abused and assaulted her.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. It is submitted that there is contradiction in the statement of the victim recorded under Sections 161 & 164 of the Cr.P.C. Medical report also suggests that there was no sign of physical injury on any part of body. There is no ingredient of Section 376 of the IPC against the appellant, hence, no case is made out against the appellant under Section 376 of the IPC. Victim is aged about 20 years. 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 07-03-2024 and has no criminal antecedent.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of bail to the appellant and



submitted that informant/victim directly arraigned the appellant in this case.

6. Considering the aforesaid facts and circumstances of the case, there being no direct material against the appellant, clean antecedent of the appellant and the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 20-05-2024 passed by learned ADJ-1st Aurangabad 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 Madanpur PS Case No. 245 of 2023.

(Rudra Prakash Mishra, J)

Raj Kishore/-

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