

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3742 of 2024

Arising Out of PS. Case No.-26 Year-2024 Thana- MAHILA P.S. District- Sitamarhi

Pankaj Kumar Son of Ramadhar Sah Resident of Village - Kathari, P.S.- Riga,
District- Sitamarhi

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Shanti Devi Wife of Indrajeet Baitha Resident of Village - Kathari, P.S.-
Riga, District- Sitamarhi

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ashok Kumar Jha
For the Respondent/s	:	Mr.Usha Kumari 1
For the Informant	:	Mr. Subodh Kumar
		Mr. Surendra Kishore Thakur

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

4 01-05-2025 Heard learned counsel for the appellant, learned
counsel for the informant and learned Special Public Prosecutor
for the State.

2. This is an appeal under Section 14A(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
SC/ST Act) against the refusal of prayer of bail *vide* order dated
23.07.2024 passed by the learned 1st Additional Sessions Judge-
Cum- Special Judge, SC/ST Act, Sitamarhi in connection with
Sitamarhi Mahila P.S. Case No. 26/2024 dated 10.05.2024
registered for the offence/s punishable u/s 376, 323, 341, 324,



354, 354D, 504 and 506 read with Section 34 of the Indian Penal Code and Sections 3(2)(v) of the SC/ST Act.

3. As per the prosecution case, the appellant is alleged to have committed rape on the informant on the pretext of the marriage. Thereafter, the informant also fell in love with the appellant. Subsequently, the appellant made obscene photographs and video of the informant and started threatening her and her husband with dire consequences and began sexually harassing her. When the informant's husband came to know about this, the informant stopped talking with appellant as a result of which, the appellant came to her house and assaulted her. Further, *Panchayati* was held where the *Panches* imposed fine of Rs. 40,000/- to the appellant, despite that he began following and threatened her to make her obscene photo and video viral. The co-accused persons also threatened her. Thereafter, the informant informed family members of the appellant then the co-accused persons abused and assaulted her and outraged her modesty. It is alleged that on 28.04.2024, when the informant was drinking water on a hand-pump outside her house, the appellant came from behind and wrapped her mouth by clothes and took her near his house, then she raised alarm and the accused persons fled away.



4. Learned counsel for the appellant has submitted that the appellant has falsely been implicated in this case due to ulterior motive. As per FIR, no member of public was present at the relevant point of time of the incident. Learned counsel has further submitted that no particular caste name has been called by the appellant hence no case is made out under SC/ST Act. The informant is a major woman who knows the consequence of the act of the appellant. There was love affair between the victim and the appellant. As per the Medical Report, no definite opinion regarding sexual assault can be given. Learned counsel has submitted that the informant is an old lady and is the mother of the three children. The appellant has no criminal antecedent as stated at para 3 of the bail petition. The appellant is in custody since 16.07.2024.

5. Learned Spl. P.P. for the State as well as the learned counsel for the informant have vehemently opposed the prayer of bail by submitting that the victim in her statement recorded u/s 161 and 164 of the Cr.P.C. has supported the prosecution story.

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



23.07.2024 passed by the learned 1st Additional Sessions Judge-
Cum- Special Judge, SC/ST Act, Sitamarhi in connection with
Sitamarhi Mahila P.S. Case No. 26/2024 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 1st Additional Sessions
Judge-Cum- Special Judge, SC/ST Act, Sitamarhi in connection
with Sitamarhi Mahila P.S. Case No. 26/2024, with the
condition:-

(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 appellant are liable to be cancelled.

(Chandra Prakash Singh, J)

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