

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3858 of 2024

Arising Out of PS. Case No.-981 Year-2023 Thana- SHERGHATI District- Gaya

Dablu Kumar, Male, aged about 22 years, Son of Sanjay Kumar @ Sanjay Prasad, R/O Village- Pakadidh, P.S.- Imamganj Distt.- Gaya

... .. Appellant

Versus

1. The State of Bihar
2. Mrs. "A", Wife of Deepak Kumar, R/O Village- Pokhraha, P.S.- Imamganj Distt.- Gaya

... .. Respondents

Appearance :

For the Appellant	:	Mr. Sanjay Kumar, Advocate
For the Respondent No.2:	:	None
For the State	:	Mr. Binay Krishna, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 08-05-2025 Heard learned counsel for the appellant and learned Spl. P.P. for the State. However, learned counsel for the respondent no. 2 is not present despite valid service of notice upon the respondent no. 2.

2. This is an appeal under Section 14(A)(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 for prayer of bail of the appellant vide order dated 20.06.2024, passed by the learned Exclusive Special Judge, POCSO-cum-Additional Sessions Judge-VII, Gaya, arising out of Sherghati P.S. Case No. 981 of 2023 registered for the offences punishable under Sections 363,



365, 376, 376D, 376DA, 506 read with Section 34 of the I.P.C. and Sections 3(2)(v) of the SC/ST Act.

3. The prosecution case, in brief, is that the informant and her minor friend aged about 13 years used to talk with the appellant. It is further alleged that on 11.09.2023, the appellant called the informant and her minor friend to Sherghati, induced them and took them to Patna and at Patna Station, Ajay Choudhary also came with his two other friends and the appellant, Ajay Choudhary and their two friends kept them in a room of the hotel and forcibly committed rape on them. It is further alleged that on 12.09.2023, all the accused persons brought the victims to Gaya by train and from Gaya, they brought them to Bodh Gaya where they kept them in a hotel and again committed rape on them. When the victims protested, all the accused persons threatened them and they could not say anything out of fear. It is further alleged that on 13.09.2023, Ajay Choudhary and his two associates returned from Bodh Gaya and the appellant left the victims in the village.

4. It is submitted by learned counsel for the appellant that the appellant is quite innocent and has falsely been implicated in the present case due to ulterior motive. It is further submitted that both the victims went to Patna of their own sweet



will and the appellant did not took them forcibly as he was not alongwith them. The appellant was the friend of the husband of the informant and he used to talk on mobile phone with his friend. It is further submitted that the trial of the present case is going on and none of the witness has supported the prosecution case. It is further submitted that altogether five witnesses have been examined and none of them have stated about the complicity of the appellant in the alleged offence. It is further submitted that the medical report of the victims does not support the case of prosecution. It is further submitted that one of the victim as P.W.1 in her examination-in-chief has stated that no one has committed any wrong act with her and in her cross-examination also she has not identified the appellant and other co-accused person and the informant as P.W. 2 in her deposition at paragraph no. 12 has stated that earlier she has named the appellant but later on she has stated that the appellant has no hand in the alleged crime but in paragraph no. 13 she identified the appellant and the co-accused Ajay through Video Conferencing. The appellant is in custody since 15.09.2023. The appellant has clean antecedent as stated in paragraph no. 3 of the memo of appeal. No member of public was present at the relevant point of time of the alleged incident. Hence, no offence



under the SC/ST Act is made out against the appellant.

5. Learned Spl. P.P. for the State has opposed the prayer for bail of the appellant.

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 20.06.2024, passed by learned Exclusive Special Judge, POCSO-cum-Additional Sessions Judge-VII, Gaya, arising out of Sherghati P.S. Case No. 981 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, POCSO-cum-Additional Sessions Judge-VII, Gaya, arising out of Sherghati P.S. Case No. 981 of 2023,

(Chandra Prakash Singh, J)

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