

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4687 of 2023

Arising Out of PS. Case No.-27 Year-2023 Thana- SC/ST District- Purnia

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1. MD. MALIK @ MD. MALEK S/o LATE NAIMUDDIN R/o- Kunwan Bazar Madarsa W.No-32, Ps- Sadar Dist- Purnea
 2. Md. Ainul son of Md. Malik @ Md. Malek R/o- Kunwan Bazar Madarsa W.No-32, Ps- Sadar Dist- Purnea
 3. Md. Manirul son of Md. Malik @ Md. Malek R/o- Kunwan Bazar Madarsa W.No-32, Ps- Sadar Dist- Purnea

... .. Appellant/s

Versus

1. The State of Bihar
2. Anita Devi @ Chandni @ Chandani Khatoon D/o- Jhirku Uraon R/o- Mizapur School Tola W.No-13, Ps- K.Nagar Dist- Purnea

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Md Fazle Karim, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, APP
For Respondent No.2	:	Mr. Sumit Kumar Bhagat, Advocate
	:	Ms. Swarnima, Advocate
	:	Mr. Shashwat Sahil Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 22-04-2025 Heard Mr. Md Fazle Karim, learned counsel for the appellants, Mr. Sumit Kumar Bhagat, learned counsel for the Respondent no.2 as well as Mrs. Usha Kumari 1, learned Special Public Prosecutor for the State.

2. This is an appeal under Sections 14(A)(2) against refusal of the prayer for anticipatory bail by order dated 13.09.2023 passed by the learned Special Judge, SC/ST (PoA) , Purnea in A.B.P. No. 106 arising out of SC/ST P.S. Case No. 27 of 2023, dated 08.06.2023 registered under Sections 323, 324,



307, 376, 420 and 406 of the Indian Penal Code and Sections 3(i)(r)(s), 3(1)(x) of the Scheduled Castes and Scheduled Tribes (PoA) Act.

3. According to the prosecution case, the informant stated therein that brother of the informant loved the sister of accused no.1 and they eloped. On 25.10.2022, the appellants along with other accused persons kidnapped the informant and kept her with them for three months at different places, assaulted her and made physical relation with her. Thereafter the she was brought to house of one of the co-accused, namely, Md. Sadikul and there all male members of his family committed rape upon her and used to make videos and post it on social media.

4. Learned counsel for the appellants submits that appellants have clean antecedent and they have falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the appellants have not committed any offence as alleged in the FIR in fact appellant no.1, namely, Md. Malik @ Md. Malek had filed a case against the brother and other family members of the informant bearing Sadar P.S. Case No. 463 of 2022 dated 25.06.2022 under Section 363, 365, 366A, 504, 506/34 of Indian Penal Code and



due to this reason the informant has filed the false case against the appellant and his family members and victim of Sadar P.S Case No. 463 of 2022 was recovered and her statement was recorded under Section 164 of Cr.P.C/183 of BNSS in which she has categorically stated that the brother of the informant, namely, Arvind has committed rape with her and apart from that the victim of the present case has performed marriage with the co-accused, namely, Md. Sadikul and the informant has sworn in an affidavit, which is part of the FIR, dated 09.05.2022 which suggest that the informant has performed marriage with accused Md. Sadikul.

5. Learned Special Public Prosecutor for the State and learned counsel for Respondent no.2 vehemently opposed the prayer for bail of the appellants and submits that the statement of victim was recorded under Section 164 of Cr.P.C/183 of B.N.S.S in which she has fully supported the prosecution case.

6. After hearing the parties, in my view for the purpose of this anticipatory bail, no offence under the provisions of Scheduled Castes and Scheduled Tribes Act is made out.

7. Considering the aforesaid facts, appellants have clean antecedent and due to previous dispute the present false case has been lodged against the appellants and affidavit of the



informant suggest that the present case is a false case, let the appellants, above named, in the event of their arrest to surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST (PoA), Purnea in A.B.P. No. 106 arising out of SC/ST P.S. Case No. 27 of 2023, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure / Section 482(2) of the Bhartiya Nagarik Suraksha Sanhita, 2023 and with other following conditions:-

i. Appellants shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

ii. If the appellants tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

iii. And further condition that the court below shall verify the criminal antecedents of the appellants and in case at any stage it is found that the appellants have concealed their



criminal antecedents, the Court below shall take step for cancellation of bail bonds of the appellants. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

8. Accordingly, the impugned order is set aside and this appeal stands allowed.

(Rajesh Kumar Verma, J)

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