

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5050 of 2024

Arising Out of PS. Case No.-85 Year-2024 Thana- KHIRHAR District- Madhubani

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1. Vikash Kumar Thakur @ Vikash Thakur S/o Ram Kishor Thakur Resident of Village- Bhala Baingra, P.S.- Khirhar, District- Madhubani
 2. Sushma Devi W/o Ram Kishor Thakur Resident of Village- Bhala Baingra, P.S.- Khirhar, District- Madhubani

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Rakhi Kumari d/o Vijay Safi R/o vill - Bhala Baingra, ward no. 14, P.S. - Khirhar, Distt. - Madhubani

... .. Respondent/s

Appearance :

For the Appellant	:	Mr. Shreyash Bhardwaj, Advocate
For the Respondent	:	Mr. Usha Kumari 1, Sp.P.P
For the Respondent No. 2	:	Mr. Ravi Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 19-06-2025 Heard learned counsel for the appellants and learned counsel for the informant as well as 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 07.10.2024 passed by the learned Additional Sessions Judge-1st, Madhubani in connection with G.R. NO. 135/2024, arising out of Khirhar P.S. Case No. 85/2024 dated 02.09.2024 registered for the offence/s punishable u/s 126(2), 115(2), 64, 318(4), 352, 351(2) read with Section 3(5) of the B.N.S. and Section 3(1)(r) (s) and 3(2)(va) of the SC/ST Act.



3. As per the prosecution case, the appellant no. 1 is alleged to have committed rape on the informant on the pretext of the marriage.

4. Learned counsel for the appellants has submitted that the appellants have 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 appellants hence no case under the SC/ST Act is made out against the appellants. There was love affairs between the informant and the appellant no. 1. The informant is a major woman who knows the consequence of the act of the appellant No. 1. Learned counsel for the appellants have placed reliance on the judgment in the case of **Mandar Deepak Pawar Vs. State of Maharashtra & Anr. (Criminal Appeal No. 442 of 2022)** in which "a distinction was made between a false promise to marriage which is given on understanding by the maker that it will be broken and a breach of promise which is made in good faith but subsequently not fulfilled". As per the Supplementary Affidavit, the appellant no. 1 is read to marry the respondent no. 2 and he is ready to keep the respondent no. 2 child with honour and dignity. The appellants have no criminal antecedent as



stated at para 3 of the bail petition. The appellants are in custody since 25.09.2024.

5. Learned Spl. P.P. for the State as well as learned counsel for the informant have vehemently opposed the prayer of bail.

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 appellants, the impugned order dated 07.10.2024 passed by the learned Additional Sessions Judge-1st, Madhubani in connection with G.R. NO. 135/2024, arising out of Khirhar P.S. Case No. 85/2024 is set aside against the appellants. The criminal appeal is allowed.

7. Accordingly, the above named appellants, are directed to be enlarged on bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-1st, Madhubani in connection with G.R. NO. 135/2024, arising out of Khirhar P.S. Case No. 85/2024.

(Chandra Prakash Singh, J)

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