

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5570 of 2023

Arising Out of PS. Case No.-12 Year-2023 Thana- BAGHA District- West Champaran

=====

Taukir Sheikh @ Taukir Alam SON OF SK. ZILA @ SHEIKH ZILA
RESIDENT OF VILLAGE- SISWA, BASANTPUR, PS- CHAUTARWA,
DISTT- WEST CHAMPARAN

... .. Appellant/s

Versus

- 1 . The State of Bihar
2. SUNITA DEVI WIFE FO LAXMAN GOND RESIDENT OF VILLAGE-
SISWA, BASANTPUR, PS- CHAUTARWA, DISTT- WEST
CHAMPARAN

... .. Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Bimlesh Kumar Pandey, Advocate
For the Respondent/s	:	Mrs. Usha Kumari 1, Spl. PP
For respondent No. 2	:	Mr. Manoj Kumar , Advocate
		Mr. Mithilesh Thakur , Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 13-02-2025 Heard learned counsel for the parties.

2. This appeal has been filed for setting aside order dated 19.10.2023 passed in a case registered for the offence punishable under sections 376, 504, 506, 323 , 354C , 354 D , 385 and 34 of the Indian Penal Code and sections 3(i)(r) (s) , 3 (2) (va) and 3 (i) (w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and under Section 67 and 67 (A) of Information Technology Act whereby the prayer for anticipatory bail of the appellant has been rejected.

3 . As per the prosecution case, the informant and petitioner, Taukir Alam, are co-villager, and the husband of the



informant is in Jalandhar for livelihood. Since , one and a half years, the appellant used to come to the house of informant and give biscuits and toffees to children of informant. One day when this appellant came to the house of the informant and made her drink “Maza,” due to which the informant became unconscious, and when she woke up, she came to know that the appellant had committed rape with her. Thereafter, he continued to have sexual intercourse with the informant for one year. It is further alleged that in January this appellant went to Saudi Arabia, and through video call he asked the informant to make physical relations with his friend, otherwise , he would make her obscene video viral, and on denial, he made the video viral. It is further alleged that this appellant along with other co-accused persons abused the informant by caste name and also assaulted her.

4. It is submitted that no such occurrence as alleged in the F.I.R., has ever taken place . Informant has lodged this case only with a view to harass and make pressure on appellant to withdraw the complaint case lodged five days earlier that is complaint Case No. 788 of 2023 filed by father of appellant against the present informant, her husband and brother of informant’s husband. Appellant is 28 years old whereas



informant is married lady aged about 30 years and having 4 children . From bare perusal of the F.I.R., it is apparent that at the time, when relationship developed between the parties, they were major. Both of them enjoyed each other's company for a long time and indulged in sexual act. The relationship was consensual and the same cannot be said to be induced or involuntarily . Simply because the relationship does not work, that cannot be the ground to lodge F.I.R., under Section 376 of IPC against the appellant. It is not the case of the informant that any member of public was present at the time of incident, as such, no case under SC/ST Act is made out. Appellant claims clean antecedent.

5 . Learned counsel for respondent No. 2 and Special Public Prosecutor for the State opposed the prayer for bail.

6. Considering the aforesaid facts, this appeal is allowed and the impugned order is set aside. Let the appellant, named above, in the event of arrest/surrender within a period of eight weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District and



Sessions Judge 1st cum Special Judge , SC /St Bettiah West
Champaran in connection with Bagaha Cyber Police Station
Case No. 12 of 2023 .

(Prabhat Kumar Singh, J)

Koushik/-

U		T	
---	--	---	--

