

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5629 of 2024**

Arising Out of PS. Case No.-37 Year-2024 Thana- SC/ST District- Gaya

JAY PRAKASH KUMAR @ JAY PRAKASH YADAV S/O- MAHADEV
YADAV Village- Chatri Kaudia Bigha Ps- Konch Dist- Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. Puja Kumari W/o- Ranjan Paswan Village- Kauriya Bigha Sukhdev Nagar
PS- Konch Dist- Gaya

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sharda Nand Mishra, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, SPP

**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

4 15-05-2025 Heard learned counsel for the appellant, learned
Special Public Prosecutor for the State. Perused the case diary.

2. The instant appeal has been filed by the appellant against the order dated 29.10.2024 passed by learned Exclusive Special Judge, SC/ST Act, Gaya whereby the prayer for bail of the appellant in connection with SC/ST P.S. Case No. 37 of 2024 under Sections 127(1), 115(2), 76, 329(4), 352, 3(5) of the BNS and Section 3(i)(r)(s)(w) of SC/ST Act was rejected.

3. The prosecution case, in short, is that on the alleged



date and time of occurrence, the appellant and other accused persons entered the house of the informant forcibly, assaulted her, tore her clothes and attempted to commit rape upon her. It is further alleged that the accused persons also abused her using caste-related slurs and threatened her with dire consequences.

4. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case due to previous land dispute and dirty village politics. Learned counsel further submitted that there is a delay of five days in lodging the FIR without any plausible explanation, which in itself, raises doubt over the prosecution story. Learned counsel further submitted that all Sections are bailable in nature except Section 76 of the BNS and the same is ornamental in nature. Learned counsel for the appellant further submits that the appellant has not taken the caste name of the informant in public view, hence, no offence under the provisions of SC/ST Act is made out against him. The appellant has no intention to disgrace the image of the informant in public view. Charge-sheet has been submitted in this case. The appellant is in custody since 17.08.2024 and has two criminal antecedents.

5. Learned Special P.P. for the State vehemently opposed the prayer for grant of bail to the appellant, stating that



victim in her statement recorded under Section 183 of the BNSS has supported the case of the prosecution and specifically stated that this appellant tried to commit rape upon her.

6. Considering the aforesaid facts and circumstances of the case and the period of custody undergone by the appellant, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 29.10.2024 passed in connection with SC/ST P.S. Case No. 37 of 2024 is hereby set aside.

7. Let the appellant, abovenamed, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with SC/ST P.S. Case No. 37 of 2024, subject to the following conditions:

(I) One of the bailors shall be own/close member of the family of the appellant.

(II) The appellant shall appear on each and every date fixed at the trial. In case of default in such appearance on two consecutive dates, the Trial Court will have liberty to cancel the bail bonds of the appellant.

(III) If the appellant tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move



for cancellation of bail.

8. The appeal stands allowed.

(Rudra Prakash Mishra, J)

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