

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.538 of 2022

Arising Out of PS. Case No.-137 Year-2015 Thana- GAURICHAK District- Patna

KARU KUMAR S/o Arun Singh @ Arun Kumar Singh Resident of Village-
Jaiwar, P.S.- Gaurichak, District- Patna.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Ajit Das Late Pokhan Das Resident of Village- Jaiwar, P.S.-Gaurichak, P.S.-
Gaurichak, District- Patna

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Krishna Pd. Singh, Sr. Advocate Mr.Bhaskar Shankar, Advocate
For the State	:	Mr.Sadanand Paswan, Spl. P.P.
For the Informant	:	Mr.Anjani Kr. Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

7 03-02-2026

1. Heard learned Senior Counsel for the appellant,
learned APP for the State and learned counsel for the informant.

2. The matter has been placed before this Court for
consideration of the appellant's bail prayer made under Section
389(1) of Cr.P.C. and suspension of his sentence during the
pendency of the appeal.

3. This appeal has been preferred against the judgment
of conviction dated 20.12.2021 and order of sentence dated
22.12.2021 passed by the Court of learned Additional District
Judge-III-cum-Special Judge, SC/ST Act, Patna in connection with
Special Case No. 106/2015 arising out of Gaurichak P.S. Case No.
137 of 2015, whereby and whereunder the appellant has been
convicted for the offences punishable under sections 376, 341 and



323 of the Indian Penal Code and under section 3(i)(xi) of SC/ST Act and sentenced for the said offences.

4. Mr. Krishna Pd. Singh, learned Senior Counsel for the appellant submits that the alleged victim was a 75-year-old lady at the time of commission of the alleged occurrence. Critically, she died before recording her evidence in court. Consequently, the appellant was convicted mainly on the basis of other evidences rather than on the direct testimony of the victim herself. This absence of the victim's testimony significantly weakens the prosecution's case and raises serious doubts about the reliability of the conviction.

5. Learned Senior Counsel for the appellant further contends that the Doctor who examined the victim did not find any corroborative evidence to support the allegation of rape. This lack of medical corroboration is a crucial factor that undermines the prosecution's case. Additionally, the other non-official witnesses of the prosecution are merely hearsay witnesses who did not directly witness the alleged incident. Learned Senior Counsel submits that the victim died approximately one year after the commission of the alleged occurrence and her death was natural, further emphasizing that her testimony was never recorded.

6. Learned Senior Counsel also challenges the FSL report which contains the opinion of serological analysis with



regard to the cloths of the victim. This report was not proved by competent witness testimony, and therefore the same cannot be treated as admissible evidence against the appellant. The failure to properly establish this forensic evidence through appropriate witness examination renders it inadmissible and unreliable.

7. Mr. Sadanand Paswan, learned APP appearing for the State has opposed the prayer for bail of the appellant.

8. Mr. Anjani Kr. Sinha, learned counsel for the informant has also opposed the prayer for bail of the appellant.

9. Considering the aforesaid submissions advanced on behalf of the parties and the fact that the appellant has already undergone more than half of the sentence, this application is allowed and the order of sentence dated 22.12.2021, is hereby set aside.

10. Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Additional District Judge-III-cum- Special Judge, SC/ST Act, Patna in Special Case No. 106/2015 arising out of Gaurichak P.S. Case No. 137/2015.

(Sandeep Kumar, J)

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