

(2022) 08 PAT CK 0004

Patna High Court

Case No: Criminal Appeal (SJ) No. 909 Of 2022

Mantu Yadav

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Aug. 4, 2022

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 437(3)
- Indian Penal Code, 1860 - Section 147, 148, 149, 323, 341, 354B, 504, 506
- Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 - Section 3(1)(s), 3(1)(r), 3(1)(w), 14A(2)

Hon'ble Judges: Arun Kumar Jha, J

Bench: Single Bench

Advocate: Manish Kumar No2, Sadanand Paswan

Final Decision: Allowed

Judgement

Heard learned counsel for the appellant and learned Spl. P.P. for the state.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

This is an appeal under Section 14 (a)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail by order dated 11.02.2022 passed by the learned Exclusive Special Judge, SC/ST Act, Gaya in connection with Barachatti (Mohanpur)

P.S. Case No. 775 of 2021 registered for the offences under Sections 147, 148, 149, 323, 341, 504, 506 and 354(B) of the Indian Penal Code and

Sections 3(1) (s) (r) (w) of the SC/ST (Prevention of Atrocities) Act, 1989.

As per the prosecution case, in the background of some land dispute, the appellant and other co-accused persons assaulted the complainant/informant and her family members with lathi, danda, fists and slaps. They also pull down a wall being erected by the informant on her land. Allegation against this appellant is that he sexually assaulted the informant.

Learned counsel for the appellant submits that the whole prosecution case is not believable. The land dispute is admitted and altogether nine persons of one family have been made accused in this case. It is not believable that father, uncle, sons and nephew have participated in an assault in which the petitioner allegedly sexually assaulted a female in presence of his eldest. False implication is further apparent from the date of registration of the case.

For an occurrence dated 27.06.2021, the complaint has been lodged on 15.11.2021 i.e., almost five months after the alleged occurrence. The

incorporation of provisions of SC/ST Act is only superfluous and to make the offence serious. In the background of land dispute, false implication

cannot be ruled out. Though the assault has allegedly taken place but there is no injury report or anything about the injury in the FIR. Further there is

no reasonable explanation for delay in lodging of the FIR. Charge-sheet has been submitted and the petitioner is in custody since 10.01.2022.

Learned Spl.PP opposes the prayer for bail submitting that there is specific allegation against this petitioner for sexual assault against the informant.

Perused the records.

It appears from the record that the informant/respondent no.2 has appeared through Vakalatnama but no one is present on behalf of the respondent no.2.

Having regard to the facts and circumstances and also the submission made on behalf of the parties and further considering the fact that land dispute

is apparent on the face of the record and there is strong possibility of false implication and further considering the submission of charge sheet in this

case and also the period of his custody, the appellant above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty

thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST Act, Gaya in connection with

Barachatti (Mohanpur) P.S. Case No. 775 of 2021, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also

the following conditions :

(i) One of the bailors will be a close relative of the appellant, preferably one of the parents.

(ii) The appellant will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by

the court concerned.

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