

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.1030 of 2016

Arising Out of PS.Case No. -4 Year- 2016 Thana -SISWAN District- SIWAN

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Rahul Lal Srivastava, son of Bijay Lal Srivastava, resident of Village- Birti, P.S.-
Siswan (Chainpur O.P.), District- Siwan.

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant : Mr.

For the State : Mr.

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR

SRIVASTAVA

ORAL JUDGMENT

Date: 15-12-2016

Heard learned counsel for the appellant as well as learned
A.P.P. for the State.

2. This criminal appeal, filed under section 14 A(2) of the
SC/ST (Prevention of Atrocities) Amendment Act, is preferred
against the order dated 09.06.2016 passed by learned 1st Additional
Sessions Judge, Siwan, Bihar, by which he refused to enlarge the
appellant on bail in connection with Siswan (Chainpur O.P.) P.S.Case
No. 04 of 2016.

3. The brief fact, which gives rise to file this criminal
appeal, is that the informant Pappu Kumar gave written report to
officer in-charge of Siswan (Chainpur O.P.) Police Station mentioning



therein that in the night of 18.01.2016, his sister Pinki Kumari, aged about five years, was found missing from her bed.

4. On the basis of the aforesaid written report of the informant Pappu Kumar, Siswan (Chainpur O.P.) P.S.Case No. 04 of 2016 was registered against unknown for the offence punishable under section 363 of the Indian Penal Code. Subsequently, in course of investigation, the informant and his family members expressed their suspicion against the appellant on the ground that in the night of alleged occurrence, the appellant was found standing near their house and after missing of the victim, the appellant was much proactive. Subsequently, the appellant was arrested and confessed his guilt disclosing his involvement as well as of one co-accused Md. Siraj. However, prior to recording the confessional statement of the appellant, the dead body of victim had already been recovered and, therefore, section 302, 201 of the Indian Penal Code and section 3(ii)(v) of (Prevention of Atrocities) Act were also added.

5. The police, after investigation, submitted charge sheet for the above stated offences as well as for the offence of POSCO Act.

6. Learned counsel appearing for the appellant challenged the impugned order arguing that learned court below failed to appreciate this fact that except suspicion and confessional statement,



there was nothing against the appellant. He further submitted that even if it is assumed that the appellant made his confessional statement before the police, then also, the confessional statement is not admissible in law. It is further submitted that the learned court below has not appreciated the materials available in the case diary in its right perspective and wrongly refused to release the appellant on bail.

7. On the other hand, learned Additional Public Prosecutor appearing for the State supported the impugned order arguing that the appellant and his associate committed heinous offence and, as a matter of fact, one five years old girl was not only raped but also murdered.

8. Having heard the above stated contentions of both the parties, I have gone through the record and case diary.

9. No doubt, five years old minor girl was raped and killed but it is obvious from the materials collected during course of investigation that except suspicion as well as confessional statement of the appellant, the I.O could not succeed to collect any cogent material to show the involvement of the appellant in the alleged rape and murder of five years old girl. Therefore, in my view, learned counsel appearing for the appellant rightly submitted that the learned court below failed to appreciate the materials available in the case



diary in its right perspective.

10. On the basis of aforesaid observation, this Criminal Appeal is allowed and impugned order dated 09.06.2016 passed by learned Additional Session Judge 1st, Siwan, refusing to release the petitioner on bail in Siswan (Chainpur O.P.) P.S.Case No. 04 of 2016 is set aside.

11. Accordingly, the appellant, above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of 1st learned Additional Sessions Judge cum Special Judge, Siwan in connection with Siswan (Chainpur O.P) P.S. Case No. 04 of 2016.

(Hemant Kumar Srivastava, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

