

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2584 of 2019

Arising Out of PS. Case No.-2 Year-2019 Thana- SONBERSA District- Saharsa

RAKESH MOHAN SINGH @ BABLU SINGH Son of Jwala Prasad Singh
Resident of Village - Soha, P.S.- Sonbersa, District- Saharsa

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 2527 of 2019

Arising Out of PS. Case No.-2 Year-2019 Thana- SONBERSA District- Saharsa

RAJESH SADA Son of Harish Chandra Sada @ Hari Chandra Sada Resident
of Village- Soha, P.S.- Sonbersa, District- Saharsa.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 2584 of 2019)

For the Appellant/s : Mr.Madhav Jha

For the Respondent/s : Mr.Usha Kumari 1

(In CRIMINAL APPEAL (SJ) No. 2527 of 2019)

For the Appellant/s : Mr.Madhav Jha

For the Respondent/s : Mr.Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

4 27-08-2019 As both the criminal appeals have cropped up from the same order, hence aforesaid two appeals are being heard together and disposed of by this common order.

Heard learned counsel for the appellants, learned counsel for the informant and learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the SC/ST Act against the refusal of prayer for anticipatory bail vide order



dated 17.05.2019 passed by learned 3rd Addl. Sessions Judge cum Special Judge, Saharsa in Sonbersa P.S. Case No. 02 of 2019 registered under Sections 363 and 366 of the Indian Penal Code and Section 3(i)(r) of the SC/ST Act.

Four named accused persons including the appellants are said to have kidnapped the minor daughter of the informant on motorcycle and subsequently skeleton of the victim was recovered from the bank of the pond.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case. As a matter of fact, victim was major and she was in love with another person and had eloped with him and might have been eliminated by him and in order to save his prestige in the village informant has filed this false and frivolous case against the appellants and others. The occurrence is said to be of 16.12.2018 but the F.I.R. has been lodged on 03.01.2019 after inordinate and abnormal delay of 18 days without assigning any plausible explanation for the aforesaid delay. Though the informant in his written report has stated that he has given written report after making search at his level but as the appellants were allegedly seen by the informant in the course of



kidnapping his daughter, informant must have lodged the F.I.R. within the reasonable period and not after 18 days and moreover informant in his further statement has not stated about making search of his daughter. There is no eye witness of the occurrence. Though informant has claimed himself to be the eye witness of kidnapping of his daughter by the appellants and other accused persons, but the son of the informant namely Birendra Kumar in Para-7 of the case diary has stated that he has learnt the occurrence of kidnapping of his sister by the appellants from the villagers and not from his father (informant) which also creates serious doubt about the complicity of the appellants in the occurrence. The said witness has also not disclosed the name of the villager from whom he has learnt the occurrence of kidnapping of his sister by the appellants. Moreover regarding the said occurrence informant has lodged complaint case no. 1 of 2019 against six accused persons including the appellants. Appellants have no criminal antecedent. Similarly situated co-accused namely Pankaj Yadav @ Pankaj Kumar Yadav has been enlarged on anticipatory bail by a co-ordinate Bench of this Court vide order dated 22.05.2019 passed in Cr. Appeal (SJ) No. 2070 of 2019. Hence the appellants may be enlarged on bail.



On the other hand, learned Spl. PP for the State and learned counsel for the informant opposing the bail petitions submitted that the informant happens to be eye witness of the occurrence and before the informant appellants and other accused persons have kidnapped his daughter and subsequently committed her murder and her skeleton was recovered from the bank of the pond. Hence the appellants do not deserve bail.

Having regard to the facts and circumstances of the case, let the above named appellants, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 3rd Addl. Sessions Judge cum Special Judge, Saharsa in connection with Sonbersa P.S. Case No. 02 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and aforesaid two appeals are allowed.

(Prakash Chandra Jaiswal, J)

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