

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2493 of 2019

Arising Out of PS. Case No.-199 Year-2017 Thana- LAXMIPUR District- Jamui

Naushad Miya, aged about 21 years, male, Son of Rahmat Miya, Resident of
Village - Kenduwa Tarh, P.S.- Jhajha, District - Jamui

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Amrendra Kumar-Advocate
For the Respondent : Mr. Sadanand Paswan-S.P.P.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

16-11-2019

Heard learned counsel for the appellant as well as
learned Special Public Prosecutor.

2. This appeal under Section 14-A(2) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act') has been filed by the appellant for setting aside the order dated 29.03.2019 passed in A.B.P. No.45 of 2019 by the learned Additional Sessions Judge-1st, Jamui whereby he has rejected the application of pre-arrest bail of the appellant filed under Sections 363, 366(A) of the Indian Penal Code and Section 3(I)(r) and Section 3(2)(v)A of the Act.

3. The prayer for grant of pre-arrest bail of the appellant was rejected on the ground that in view of Section 18 of the Act, the application was not maintainable.



4. The allegation against the appellant is that he abducted the minor daughter of the informant aged 16 years.

5. Learned counsel appearing for the appellant submitted that the victim left her house out of her own sweet-will and married with the appellant. She is leading a happy conjugal life with the appellant and the institution of the first information report is an abuse of process of the court. She has further contended that the allegations made in the first information report by the informant that the alleged victim is aged 16 years is wrong. As a matter of fact, on the alleged date of occurrence, the victim was aged about 18 years.

6. Per contra, learned counsel appearing for the State submitted that the alleged offences took place on 10.09.2017. The victim is still traceless. The appellant is evading his arrest and the police have already taken steps for procuring order of proclamation and warrant of attachment against the appellant. He contended that from perusal of the first information report as also the materials collected during course of investigation, it cannot be said that the alleged victim was major on the date of occurrence.

7. Regard being had to the allegations made in the F.I.R., coupled with the fact that the victim is still traceless,



it can safely be said that an offence punishable under the S.C./S.T. Act is made out.

8. In that view of the matter, no error can be found with the order passed by the learned Special Judge whereby he has rejected the application on the ground of maintainability.

9. The appeal, being devoid of any merit, is dismissed.

10. In case, appellant surrenders and files an application for bail, the same shall be considered on merits without being prejudiced in any manner by this order.

(Ashwani Kumar Singh, J)

Vikash/-

AFR/NAFR	NAFR
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