

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3443 of 2018

Arising Out of PS. Case No.-157 Year-2018 Thana- KUDHNI District- Muzaffarpur

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- 1) Sukesh Kumar @ Dilip Rai, S/o Shobit Rai, resident of village, Paraiya, P.S.- Kurhni, District, Muzaffarpur
2) Pankaj Kumar, S/o Chandeshwar Rai, resident of village, Lalganj, Jehanabad, P.S. Lalganj, District, Vaishali at present resident of village, Paraiya, P.S. Kurhni, District, Muzaffarpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pawan Kumar Singh
For the Respondent/s : Ms. Usha Kumari No-1

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

6 25-01-2019 Heard learned counsel for the parties.

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 09.08.2018 passed by the 1st Addl. Sessions Judge-cum-Spl. Judge, POCSO Act, Muzaffarpur in connection with Trial No.55/18 arising out of Kudhani P.S. Case No.157/18 registered under Sections 366(A), 323, 376(D)/34 of the Indian Penal Code and Section 3(f)(w)(i)(ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Informant who is brother of the deceased has alleged that on 13.04.2017, his sister, Mala Kumari, aged about 15 years



had gone to attend the call of nature in the evening at 6 O' clock and till late night, she did not return. Thereafter, all the family members made hectic search but she could not be traced. They suspected that her sister had been kidnapped by unknown persons. During course of search, the informant came to know that his sister was recovered from Goroul Police.

It has been submitted on behalf of the petitioner that he is innocent and has been falsely implicated in this case.

Statement of the victim girl has been recorded under Section 164 Cr.P.C., wherein she has stated that when she was returning to her home, Dinesh, who was known to her, asked her to sit on his auto to leave her to her house but he did not go to her house rather he went somewhere else and, thereafter, he called his two friends, i.e., the petitioners and after drinking wine, all of them committed rape upon her. Thereafter, they also took her on truck and again committed rape upon her. After that, accused persons were taking her to sell in Muzaffarpur but in the meantime, after hearing the sound of victim girl, the police arrested them.

Considering the aforesaid facts and circumstances of the case, and also the fact that this is a case of gang rape, I am not inclined to enlarge the appellants on bail at this stage.



Hence, their prayer for bail is rejected.

Accordingly, this appeal stands dismissed.

(S. Kumar, J)

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