

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2210 of 2019**

Arising Out of PS. Case No.-26 Year-2018 Thana- MAHILA P.S. District- Vaishali

Sonu Kumar Son of Tej Narayan Rai @ Bhuil Rai Resident of Village-
Warishpur Maal, P.S.- Bhagwanpur, District- Vaishali.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 2774 of 2019

Arising Out of PS. Case No.-26 Year-2018 Thana- MAHILA P.S. District- Vaishali

Satya Prakash @ Jyoti Kumar Son of Ranjeet Rai Resident of Village-
Warishpur Maal, P.S.-Bhagwanpur, District-Vaishali.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 2210 of 2019)

For the Appellant/s : Mr. Sunil Kumar Singh

For the Respondent/s : Mr. Sadanand Paswan

(In CRIMINAL APPEAL (SJ) No. 2774 of 2019)

For the Appellant/s : Mr. Sunil Kumar Singh

For the Respondent/s : Mr. Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

5 13-09-2019 As the aforesaid two criminal appeals have cropped

up from the same P.S. Case, hence, they are taken up together

and are being disposed of by common order.

Heard learned counsel for the appellants and learned

Spl. PP for the State.



This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer of anticipatory bail vide orders dated 05.04.2019, 22.05.2019 passed by learned 1st Addl. Sessions Judge cum Special Judge, Vaishali at Hajipur in Mahila P.S. Case No. 26 of 2018 registered under Sections 366(A), 342, 376(2)(1)/34 of the Indian Penal Code, Sections 4, 6, 8, 10, 17, 18 of POCSO Act and Sections 3(i)(w)(i)(ii), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellants along with co-accused, namely, Jai Ram Thakur kidnapped the informant, who happens to be minor by car while she had gone for defecation, and on the way, made her senseless by getting her inhaled some intoxicating substance. On regaining sense, she herself found in a room, where appellant Sonu Kumar committed rape against her time and again while appellant Satya Prakash and co-accused Jai Ram Thakur stood on guard by that time. Later on, all the accused persons left her at Muzaffarpur station extending threatening of dire consequence to her family members.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. As a matter



of fact, co-accused Jai Ram Thakur is own brother of the father of the informant and litigation is pending between them over property dispute and due to aforesaid dispute, he has got this case lodged through his daughter with altogether wrong and concocted allegation. Witnesses in paragraphs 27, 28, 39 and 40 of the case diary have stated that the victim was married with one Ravi Kumar and she had left her maternal house in the night. Victim and her father has also lodged two other cases against the appellants. Victim in her earlier complaint petition has stated that she was let free on 6.08.2018 while her father has stated that she was not released till 14.08.2018. The aforesaid contradiction between the statement of victim and her father creates serious doubt about the prosecution case. Co-accused Jai Ram Thakur has been enlarged on regular bail by the learned court below. Appellants have no criminal antecedent, hence, they may be enlarged on bail.

Per contra, learned counsel for the informant and learned Spl. P.P. for the State opposing the bail prayer of the appellants submitted that the victim in her statement recorded under Section 164 Cr.P.C. has stated that all the three accused persons including the appellants kidnapped her by car while she had gone for defecation and making her senseless by getting her



inhaled some intoxicating substance took her in a room, where appellant Sonu Kumar committed rape against her in the night time and again while appellant Satya Prakash and co-accused Jai Ram Thakur stood on guard. Thereafter, they took her to some other places and kept with them for one month eight days and committed rape against her. Moreover, process under Section 83 Cr.P.C. has been executed against the appellants, hence, they do not deserve anticipatory bail.

In the facts and circumstances of the case, I am not inclined to enlarge the appellants on anticipatory bail. Accordingly, their prayer is rejected.

However, appellants are directed to surrender before the court below within six weeks and seeks regular bail and learned court below shall pass order in accordance with law considering the facts and circumstances of the case without being prejudiced by this order.

Accordingly, the aforesaid two appeals are dismissed.

(Prakash Chandra Jaiswal, J)

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