

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2918 of 2019

Arising Out of PS. Case No.-53 Year-2019 Thana- BAHERI District- Darbhanga

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Sant Lal Mandal @ Sant Lal @ Santosh Kumar Mandal @ Santosh Mandal
Son of Late Ram Baran Mandal Resident of Village - Bara Inay, P.S.- Baheri,
District- Darbhanga.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Anil Kumar

For the Respondent/s : Mr. Sadanand Paswan

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

ORAL ORDER

3 20-08-2019 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 18.06.2019 passed by learned 1st Additional Sessions Judge (POCSO), Darbhanga in connection with Baheri P.S. Case No. 53 of 2019 registered under Sections 341, 342, 323, 376 D & 504/34 of the Indian Penal Code, Section 8 of the POCSO Act and Section 3(1) (r) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Appellant is said to have kidnapped the minor



daughter of the informant along with co-accused Ajit Kumar Mandal and the driver of the tata magic car, while she had gone for defecation in the mango orchard and taken to her in a hut and committed rape against her. On regaining sense she found herself in the Gynae ward of Darbhanaga Medical College and Hospital.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. Appellant has been falsely implicated in the case due to dirty village politics. There is contradiction between the statement made by the victim under Section 161 Cr.P.C. and the statement recorded under Section 164 Cr.P.C. As in the statement made under Section 161 Cr.P.C. by the victim, she has stated that she was ravished by Santlal Mandal while in the statement made under Section 164 Cr.P.C. she has stated that she was ravished by both the accused persons i.e. Ajit Kumar Mandal and Santlal Mandal. Victim and her parents later on realizing the actual state of affairs filed a petition before the learned Court denying the complicity of the appellant in the occurrence. Appellant has no criminal antecedent. Hence, he may be enlarged on bail.

Per contra, learned Spl. PP for the State vehemently opposing the prayer for bail submitted that both the accused



Santlal Manda and Ajit Kumar Mandal kidnapped the victim while she had gone for defecation in the mango orchard and taken to her in a hut and committed rape against her. Though there is contradiction between the statement made under Section 161 Cr.P.C. and Section 164 Cr.P.C. but as both the accused have kidnapped the victim and taken the victim to the hut where she was ravished and witnesses in paragraphs 22, 23 and 24 of the case diary have unanimously stated that the victim was administered saline at the P.H.C. and from there she was referred to Darbhanga by ambulance in the unconscious state where she regained sense after the treatment, hence the appellant does not deserve bail.

Considering the facts and circumstances of case, I am not inclined to enlarge the appellant on bail. The prayer for bail of the appellant is hereby rejected.

Accordingly, this appeal is dismissed.

(Prakash Chandra Jaiswal, J)

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