

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3077 of 2019

Arising Out of PS. Case No.-74 Year-2018 Thana- MAHILA P.S. District- Siwan

Ranjeet Tiwari Son of Lal Babu Tiwari Resident of Village - Bharatpura, P.S.-
G.B. Nagar (Tarwara), Distt- Siwan.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bijay Prakash Singh
For the Respondent/s : Mr.Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

9 04-12-2019 Heard learned counsel appearing for the appellant as
well as learned Special Public Prosecutor for the State.

This appeal has been preferred against order dated
25.6.2019 passed by learned 1st Additional Sessions Judge -
cum - Special Judge, Siwan in POCSO Trial No. 120 of 2019 by
which and whereunder he refused to release the appellant on
bail.

The appellant and other accused are said to have
committed gang rape on a minor girl.

However, it is submitted on behalf of the appellant
that having similar allegation co-accused Guddu Tiwari has
already been released on bail by a Coordinate Bench of this
Court by order dated 20.11.2019 passed in Cr. Appeal (SJ) No.



3068 of 2019. It is, further, submitted on behalf of the appellant that the medical report does not support the accusation and, moreover, the first information report does not disclose the time and date of the alleged occurrence and in medical examination the victim was found between 18-19 years old.

On the other hand, learned Special Public Prosecutor opposed the prayer pointing out that the victim disclosed the date and time of occurrence in her further statement as well as in the statement recorded under Section 164 of the Cr.P.C.. It is, further, submitted on behalf of the State that the statement of victim shall prevail over medical evidence because medical evidence is mere an opinion of the doctor.

The perusal of case diary goes to show that the victim as well as her friend supported the prosecution story and both the aforesaid victims, specifically, stated that they were subjected to gang rape by appellant and others. No doubt, when the victim (informant) was examined by doctor, no sign of rape was found on her person and taking note of the aforesaid fact, a Coordinate Bench of this Court has granted privilege of bail to co-accused Guddu Tiwari but, in my opinion, the statement of victim as well as her friend shall prevail over the medical opinion and, therefore, I am not inclined to release the appellant



on bail.

On the basis of aforesaid discussions, this criminal appeal stands dismissed.

However, learned trial court is directed to expedite the trial of the appellant and try to conclude the same as early as possible.

(Hemant Kumar Srivastava, J)

Spd/-

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