

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3884 of 2019**

Arising Out of PS. Case No.-59 Year-2018 Thana- KHANPURA District- Samastipur

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MUKESH KUMAR MAHTO Son of Naresh Mahto Resident of Village-
Khanpur, P.S.- Khanpur, District- Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Mritunjay Kumar
For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 16-11-2019 Heard learned Counsel for the appellant and learned
Additional Public Prosecutor representing the State.

The order, dated 27.05.2019 passed by the learned 1st
Additional Sessions Judge -cum- Special Judge, SC/ST Act,
Samastipur, in A.B.P. No. 1001 of 2019, is under challenge in
the present appeal preferred under Section 14-A(2) of the
Scheduled Caste and Scheduled Tribes (Prevention of
Atrocities) Act, 1989, whereby the anticipatory bail application
of the appellant in connection with Khanpur Police Station Case
No. 59 of 2018, registered for the offences punishable under
Sections 366A/34 of the Indian Penal Code and Section 3(i)(w)
(i) 9ii)/3 (2) of the Scheduled Caste and Scheduled Tribes
(Prevention of Atrocities) Act, 1989, has been rejected.

The allegation against the appellant is that the



appellant abducted the minor daughter of the informant for the purpose of marriage.

Learned Counsel for the appellant submits that the appellant, along with his family members, has falsely been implicated in the present case inasmuch as the appellant and the daughter of the informant were having love affairs and the daughter of the informant has been recovered and her statement, under Section 164 of the Code of Criminal Procedure, 1973, has been recorded before the Magistrate, which would be evident from paragraph 66 of the case diary.

Learned Additional Public Prosecutor, referring to paragraph 66 of the case diary, submits that the victim girl, in her statement, under Section 164 of the Code of Criminal Procedure, 1973, has categorically stated that she has got married with the appellant in a temple and she was not forcibly abducted by the appellant.

Having regard to the submissions made on behalf of the parties and taking into consideration the materials on record, it transpires that no *prima facie* case, under the provisions of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is made out against the appellant and the victim girl, in her statement under Section 164



of the Code of Criminal Procedure, 1973, has not alleged any overt act against the appellant, this appeal is allowed and the impugned order, dated 27.05.2019, passed in A.B.P. No. 1001 of 2019, is hereby set aside.

Let the petitioner, above named, in the event of his arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned learned 1st Additional Sessions Judge -cum- Special Judge, SC/ST Act, Samastipur, in connection with Khanpur Police Station Case No. 59 of 2018, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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