

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4188 of 2019

Arising Out of PS. Case No.-23 Year-2019 Thana- MAHILA PS District- Jehanabad

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1. NISU KUMAR @ NISHU KUMAR Son of Ram Vachan Yadav @ Ram Bachan Yadav Resident of Village - Khapura, P.S.- Kako, Dist.- Jehanabad.
 2. Pintu Kumar Son of Mahesh Yadav Resident of Village - Khapura, P.S.- Kako, Dist.- Jehanabad.
 3. Lalu Yadav Son of Krishna Yadav Resident of Village - Khapura, P.S.- Kako, Dist.- Jehanabad.
 4. Abhaychand @ Abhay Chand Kumar Son of Ashok Yadav Resident of Village - Narayanbigha, P.S.- Kako, Dist.- Jehanabad.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bijay Bhushan Prasad
For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 22-11-2019 On the prayer of learned counsel for the appellants, he is permitted to make necessary correction in the address of appellant no.4 in the cause title of the bail petition during course of day.

Heard learned counsel for the appellants 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 17.08.2019 passed by learned 1st Additional Sessions Judge, Jehanabad in connection with Jehanabad Mahila P.S. Case No. 23/2019 registered under Sections 363, 376/34 of the Indian Penal Code and Section 3(i) (r) (s) (w), 3 (2) (v)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

Ravi Kumar, Pintu Kumar, Nishu Kumar and Sujit Kumar are said to have kidnapped the minor daughter of the informant while she had gone out for defecation by administering her some intoxicating substance. When his daughter regained sense, she found herself nude in a room and Ravi Kumar was present there and other accused persons namely Abhaychand and Lalu Yadav extended threatening warning her not to disclose the occurrence to anyone.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. As a matter of fact, victim was in love with Ravi Kumar and she eloped with him. Father of the victim has taken her back from P.S. executing Jimmanama on 05.04.2019 narrating that his daughter had gone out of the house on 03.04.2019 without informing him and one month later he has filed this false and frivolous case against the appellants to extract



money from them. It is further submitted by learned counsel for the appellants that appellant Abhaychand does not happen to be mausa of Ravi Kumar and he is resident of village Jehanabad while the victim was taken in the house located at Gaya. Appellants have no criminal antecedent. Victim has not taken the name of appellant Lalu Yadav and Abhaychand as her kidnapper.

Learned counsel for the informant and learned Spl. PP for the State opposing the prayer for bail submitted that the victim in her statement recorded under Section 164 Cr.P.C. has stated that appellant Nishu Kumar, Pintu Kumar and two other accused persons namely Ravi Kumar and Sujit Kumar have kidnapped her by administering some intoxicating substance. Hence, they do not deserve anticipatory bail.

In the facts and circumstances of the case, the appellant no.3 namely Lalu Yadav and appellant no.4 namely Abhaychand @ Abhay Chand Kumar, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge,



Jehanabad in connection with Jehanabad Mahila P.S. Case No. 23/2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

So far as appellant no.1 namely NISU KUMAR @ NISHU KUMAR and appellant no.2 namely Pintu Kumar are concerned, I am not inclined to enlarge them on anticipatory bail. The prayer for bail of the aforesaid appellants is hereby rejected. However, the appellant no.1 and 2 are directed to surrender before the learned Court below within six weeks from today and seek regular bail and the learned Court below would pass order in accordance with law without being prejudiced by this order.

Accordingly, this appeal is disposed of.

(Prakash Chandra Jaiswal, J)

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