

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5477 of 2019

Arising Out of PS. Case No.-42 Year-2019 Thana- BANDHUWA KURAWA District- Banka

Pawan Sah, Son of Suresh Sah, Resident of Village - Baratikar, P.S. - Rajoun,
District - Banka.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Brij Nandad Prasad

For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 12-12-2019 Heard learned counsel for the appellant and learned
counsel representing the State.

The appellant in the present case is challenging the order dated 26.11.2019 passed by learned Additional Sessions Judge-I, Banka in G.R. No.138/2019 (Corresponding to Bandhuwa Kurawa P.S. Case No.42/2019) by which the learned court below has been pleased to reject the prayer for regular bail of the appellant under Sections 366(A)/34 of the Indian Penal Code and Section 3(i)(x) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. Learned counsel submits that petitioner has not committed any offence as alleged in the FIR and is languishing in jail since



04.11.2019.

Learned counsel for the State has opposed the prayer for bail.

Considering the facts and circumstances of the case particularly that the victim girl has been recovered, her age has been assessed as 17 years and it is the submission of learned counsel for the appellant that in terms of the judgment of the Hon'ble Supreme Court in the case of **Jaya Mala Vs. Home Secretary, Government of Jammu & Kashmir & Ors.** reported in **AIR 1982 SC 1297**, the assessed age and radiological age of a person may differ up to 2 years and in said case that benefit was allowed to the accused boy, further considering that the victim girl on her return made a statement that she had called the appellant and then on her own volition she had left for Kolkata and went to Delhi where she married with the appellant and stayed as husband and wife and further desired to live with this appellant, in the nature of the facts appearing before this Court, **the impugned order dated 26.11.2019** passed by learned Additional Sessions Judge-I, Banka in G.R. No.138/2019 (Corresponding to Bandhuwa Kurawa P.S. Case No.42/2019) is set aside.

Let the appellant above named be released on bail on furnishing bail bond of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned



Additional Sessions Judge-I, Banka in connection with G.R. No.138 of 2019 (Corresponding to Bandhuwa Kurawa P.S. Case No.42 of 2019), subject to the condition as laid down under Section 437 (3) Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(c) that such person shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police officer or tamper with the evidence.

(Rajeev Ranjan Prasad, J)

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