

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.236 of 2020

Arising Out of PS. Case No.-87 Year-2019 Thana- MORKAHI District- Khagaria

Bikash Mahton Son of Upendra Mahto @ Opi Mahto Resident of Village -
Bachhauta, P.O. - Bachhauta, P.S.- Morkahi, Distt - Khagaria.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr. Ashish Kumar, Adv.

For the Respondent/s : Mr. Binay Krishna, Special P.P.

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

ORAL ORDER

4 05-06-2020 Heard learned counsel appearing for the appellant as well as learned Special Public Prosecutor for the State through video conferencing.

This criminal appeal has been preferred under Section 14(A) (2) of SC/ST (Prevention of Atrocities) Act, 2015 against the impugned order dated 06.11.2019 passed by learned 1st Additional Sessions Judge, Khagaria in Morkahi P.S. Case No. 87 of 2019 by which and whereunder he rejected the bail prayer of the appellant.

The informant Dipa Devi gave written report to Officer in Charge of Morkahi Police Station, Khagaria mentioning therein that she along with her family members including her minor daughter was sleeping on the roof of her



house. The appellant came on the roof and made attempt to kidnap her minor daughter. On the basis of written report of informant, Morkahi P.S. Case No. 87 of 2019 under Sections 376/511 of the I.P.C. and Section 3(1) (R) of SC/ST (Prevention of Atrocities) Act was registered against the appellant. The appellant was taken into custody on 11.10.2019. The statement of victim was recorded under Section 164 of the Cr.P.C. Police after investigation submitted charge sheet against the appellant for the offences punishable under Section 376/511 of the I.P.C., Section 3(i) (r) (w) of SC/ST (Prevention of Atrocities) Act and Section 8 of POCSO Act.

The appellant approached the learned 1st Additional Sessions Judge, Khagaria for grant of bail but his prayer for bail was rejected by the court below taking note of fact of the case as well as offence committed by the appellant.

Learned counsel appearing for the appellant submits that no case under Section 376/511 of the I.P.C. is being made out because there is no allegation that appellant had made any attempt to sexually assault the victim. He further submits that so far as the offences of SC/ST(Prevention of Atrocities) Act are concerned, there is nothing in the written report or in the case diary to show that the informant as well as victim belong to



member of Scheduled Castes or Scheduled Tribe Community. He further submits that at best, it may be a case of attempt to kidnap a minor girl but as a matter of fact, the appellant is next door neighbour of the informant and there is long standing dispute between the parties and that is why the informant has lodged this false case against the appellant.

On the other hand, learned Special Public Prosecutor opposed the prayer on the ground of nature of the allegation levelled against the appellant as well as on the ground that appellant has criminal antecedent of similar nature.

Having heard the contentions of the parties, I went through the record along with case diary. I find no material in the first information report nor in the entire case diary to show that victim as well as informant belong to Scheduled Castes or Scheduled Tribe community. Furthermore, the fact of the present case reflects that appellant had not made any attempt to sexually assault the victim.

Therefore, considering the aforesaid facts and circumstances as well as submissions of the parties, this criminal appeal is allowed and the impugned order dated 06.11.2019 passed by learned 1st Additional Sessions Judge, Khagaria in Morkahi P.S. Case No. 87 of 2019 is, hereby, set



aside. Accordingly, appellant, above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Khagaria in connection with Morkahi P.S. Case No. 87 of 2019 .

In the aforesaid manner, this criminal appeal stands disposed of.

(Hemant Kumar Srivastava, J)

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