

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No. 304 of 2020**

Arising Out of PS Case No.-346 Year-2018 Thana- DHANARUA District- Patna

Vikash Kumar, aged about 25 years, male, Son of Ram Ratan Saw, Resident of Village- Rampur, P.S.- Dhanarua, District- Patna.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ashok Kumar Mishra, Advocate
For the State	:	Mr. Sadanand Paswan, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 15-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Ashok Kumar Mishra, learned counsel for the appellant and Mr. Sadanand Paswan, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. The appellant is in custody in connection with Special Case No. 519 of 2018 arising out of Dhanarua PS Case No. 346 of 2018 dated 29.09.2018 instituted under Sections 457, 354B and 506 of the Indian Penal Code; 11 of the Protection of Children from Sexual Offences Act, 2012 and 3(1) (r)(s)(t) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.



4. The appellant is accused of having attempted to outrage the modesty of the daughter of the informant, who is said to be 15 years of age.

5. Learned counsel for the appellant submitted that though the FIR has been lodged on 29.09.2018, but the date of occurrence has not been mentioned. It was further submitted that there has not been any medical report of the girl and further that even in her statement to the police, she has not stated about the date of the occurrence. Learned counsel submitted that the parties are next door neighbours. It was further submitted that the sequence of events, as narrated in the FIR, that at 11:30 at night, a stranger would enter into the house and the parents would not be aware and, thus, not respond in time, is not worthy of being believed. It was submitted that there is no explanation as to how the parents did not come into the room of the girl when they were in the same house and why, only when the neighbours came, the appellant is said to have run away and further, why the appellant was not caught even after that, when he is a neighbour. Learned counsel submitted that as per the allegation also, the appellant is only said to have put his hand on the private part of the victim. Learned counsel submitted that there is dispute with regard to drainage of water between the houses of the parties due to which,



false implication has been made. Learned counsel submitted that the appellant having no other criminal antecedent is in custody since 22.11.2019. Learned counsel further submitted that the girl has not got her statement recorded before the Court below under Section 164 of the Code of Criminal Procedure, 1973.

6. Learned APP, from the case diary, submitted that from the allegation in the FIR and the statement of the victim girl to the police, the appellant is said to have attempted outraging the modesty of a minor girl. However, he was not able to controvert that there is neither any date of the incident mentioned either in the FIR or the statement of the girl to the police nor her statement has been recorded under Section 164 of the Code of Criminal Procedure, 1973 and further, that there has not been any medical examination of the girl.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the appellant be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, SC/ST Act, Patna in Special Case No. 519 of 2018 arising out of Dhanarua PS Case No. 346 of 2018 subject to the conditions (i) that one of the bailors shall be a close relative of the appellant, (ii)



that the appellant and the bailors shall execute bond with regard to good behaviour of the appellant, and (iii) that the appellant shall also give an undertaking to the Court that he shall not indulge in any criminal activity, tamper with the evidence or influence the witnesses. Any violation of the terms and conditions of the bonds or the undertaking shall lead to cancellation of his bail bonds. The appellant shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

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