

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.941 of 2020

Arising Out of PS. Case No.-332 Year-2019 Thana- BAKHTIYARPUR District- Patna

ASHA DEVI, aged about 36 years, Gender-Male, W/o Rajesh Mishra, R/o village- Rawaich, P.S.- Bakhtiyarpur, District- Patna.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr.Bhaskar Shankar,Advocate.

For the Respondent : Mr.Sadanand Paswan, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 01-06-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading ‘For Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsels for the parties.

The matter relates to grant of bail to the appellant in connection with Special Case No. 204 of 2019, arising out of Bakhtiyarpur P.S. Case No. 332 of 2019 registered for the offences under Sections 376(DA), 302, 201/34 of the IPC, 6 of POCSO Act and 3(2)(v) of SC/ST (POA) Amendment Act.

The prosecution case, in short, is that on 17.10.2019, the family including daughter of the informant went near the house of Kundan Mishra for cutting woods to burn. His cousin brother came and told that his daughter was missing. So, they went near the house of Kundan Mishra and started searching her



and in course of same, he learnt that some scream was heard from his house. So, they went to the house of the Kundan Mishra and found the petitioner who told that the children of the house were being scolded. When the victim was not found, they went to the house of Kundan Mishra and asked about his missing girl upon which, Kundan Mishra and Chandan Mishra started threatening them to go away but they made their way inside the room where saw blood stains inside the room. In the meantime, police came and in their presence, house was searched and from a room, his daughter's dead body in naked condition wrapped in a bed sheet and throat slit was recovered. So, he suspected that after committing rape the victim was killed.

It has been submitted on behalf of the appellant that the appellant is in custody since 19.10.2019 and has got no criminal antecedent. Charge sheet has been submitted in this case. There is no allegation of tampering with the witnesses alleged against the appellant. The appellant has been made accused in the present case only for the reason that she happens to be the *Bhabhi* of Kundan Mishra and Chandan Mishra. The appellant is a lady. She has got no concern with the alleged occurrence. She is separate in mess and property from the co-



accused, namely, Kundan Mishra and Chandan Mishra.

On behalf of the State, it is submitted that the appellant is named in the F.I.R.

In view of the aforesaid facts and circumstances, the order dated 10.12.2019, passed by learned Additional District & Sessions Judge-Ist, Patna, in connection with Special Case No. 204 of 2019, arising out of Bakhtiyarpur P.S. Case No. 332 of 2019, is set aside. The criminal appeal is allowed.

Further, the appellant, above named, is directed to be released on bail on his personal bond to the satisfaction of learned Additional District & Sessions Judge-Ist, Patna, in connection with Special Case No. 204 of 2019, arising out of Bakhtiyarpur P.S. Case No. 332 of 2019.

Once the normalcy is restored, the appellant shall furnish bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of four weeks to the satisfaction of the court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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