

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1164 of 2020**

Arising Out of PS. Case No.-53 Year-2019 Thana- EKMA District- Saran

Saurabh Prasad, Son of Ishwar Prasad, Resident of Village- Rith, P.S.- Ekma,
District- Saran at Chapra

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Dewendra Narayan Singh, Advocate
For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

2 01-06-2020 Heard Mr. Dewendra Narayan Singh, learned
counsel for the appellant and the learned Special P.P. for the
State.

The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 against the refusal of his prayer for regular bail, vide order dated 21.09.2019 passed by learned Additional Sessions Judge-Ist-Cum-Special Judge SC/ST Act, Saran at Chapra, in connection with SC/ST Case No.113 of 2019 arising out of Ekma P.S. Case No.53 of 2019 instituted for the offence under Sections 341, 323, 324, 366A, 376, 506, 34 of the I.P.C., Sections 4, 6 of the Protection of Children from Sexual Offences (POCSO) Act and Section W(1) of



the SC/ST Act and also for setting aside the aforesaid order dated 21.09.2019.

The prosecution case, in a nutshell, is that the victim girl Ritika Kumari (the informant) had lodged a written report before the police that the appellant used to meet with her stealthily since April, 2018 and attempted to make physical relationship with the informant illegally, which she used to protest. When the matter was brought by her to the knowledge of her father and brother, they made complaint of the unsavoury behaviour of the appellant to his father. However, the appellant's father gave assurance that his son (the appellant) wanted to perform marriage with the informant. In the meanwhile, when the informant's mother suffered heart attack in the month of September, 2018 and the informant's father and brother took the informant's mother to Delhi for treatment, taking advantage of the same, the appellant enticed the informant and took her to his house and on the false pretext of marriage, established physical relationship with her. It is also alleged that the father of the appellant also forcibly made attempt to make physical relationship with the informant. When the informant protested against such illegal act, the appellant and other co-



accused together assaulted the informant and subjected her to torture and also put vermilion on the forehead of the informant, took her photograph and also forcibly took her signature on a blank paper to the effect that the informant had come to the appellant's house out of her own volition and was in love with him.

Learned counsel for the appellant submits that the present case is nothing but a love affair between the informant and the appellant and in order to put pressure to get the appellant married with the informant, the present case was lodged. It is further submitted that the medical report belies the entire prosecution case. It is further submitted that no case under Sections 4 and 6 of the POCSO Act is made out since the informant is found to be major. Further, no case under Sections 366A and 376 I.P.C. is made out as neither the informant is said to have been kidnapped nor physical relationship has been established without her consent.

Further submission of the learned counsel for the appellant is that the prosecution case is rendered doubtful on account of stark contradictions between the allegations in the F.I.R. and the statement of the victim recorded under



Section 164 Cr.P.C. The F.I.R. contains allegation alleging that the petitioner was intimidating the victim girl to establish physical relation since September, 2018, however, the F.I.R. for the first time making out such allegation has been lodged after long delay on 06.03.2019. Learned counsel submits that the father of the appellant, namely, Ishwar Prasad, has been enlarged on bail by a Bench of this Court vide order dated 12.04.2019 passed in Cr. Appeal(SJ) No.1484 of 2019. The appellant is in custody since 07.03.2019.

Learned Special P.P. has opposed the prayer for bail. He submits that the nature of allegations levelled in the F.I.R. do not leave any scope for doubt in the case of the informant. Under such circumstances, it is submitted that the appellant may not be extended the privilege of bail.

Considering the rival submissions, this Court is inclined to allow appellant's prayer for bail.

Accordingly, let the appellant, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-Ist-cum-Special Judge, SC/ST Act, Saran at Chapra, in



connection with SC/ST Case No.113 of 2019 arising out of
Ekma P.S. Case No.53 of 2019.

In the result, the appeal is allowed and the
impugned order dated 21.09.2019 is set aside.

(Madhuresh Prasad, J)

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