

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1285 of 2020

Arising Out of PS. Case No.-23 Year-2019 Thana- MAHILA PS District- Jehanabad

Nisu Kumar @ Nishu Kumar, Male, aged about 22 years, S/o Ram Bachan Yadav , Resident of village- Khapura, P.S. Kako, District- Jehanabad

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bijay Bhushan Prasad, Advocate

For the Respondent/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 02-06-2020 Heard Mr. Bijay Bhushan Prasad, learned counsel for the appellant and Mr. Binay Krishna, learned counsel appearing for the State through video conferencing.

The present Appeal has been directed against the order dated 12.02.2020 passed by learned Additional Sessions Judge 1st , Jehanabad in connection with Jehanabad Mahila P.S. Case No. 23 of 2019, registered for the offence under Section 363, 376, 34 of the I.P.C., Section 4 of the POCSO Act and Section 3(i)(r)(s)(w)/3(2)(v)(va) of the SC/ST (Prevention of Atrocities) Act, whereby the regular bail application of the appellant has been rejected.

Allegation against the appellant as per the First



Information Report is that while the informant's daughter had gone for defecation, the appellant along with other accused persons administered intoxicant substance and abducted her and when she got consciousness, she found herself in nude condition in closed room and the co-accused Ravi Kumar was present over there and other accused persons namely, Abhaychand @ Abhay Chand Kumar and Lalu Yadav threatened the victim not to disclose the incident to anyone.

Learned counsel for the appellant submits that the appellant has not committed any offence in the manner alleged. Learned counsel further submits that the occurrence has allegedly taken place on 03.04.2019 and the girl was recovered and brought to her home by the informant, who is the father of the victim girl from the Police Station and on 05.04.2019 the father of the victim girl i.e. the informant had executed a *Jimmanama* before the Police Station that he had no grievance against anybody. Learned counsel further submits that the complaint case was filed after a lapse of twelve days on 15.04.2019, which has been converted into First Information Report under Section 156(3) of the Cr.P.C. Learned counsel for the appellant referring to Annexure- 5 to the memo of appeal submits that there was love affair between the victim girl and



the co-accused Ravi Kumar and in her statement recorded under Section 164 of the Cr.P.C., which is Annexure- 6 to the present bail application, the victim girl has not stated anything against the appellant and has said that the co-accused Ravi Kumar had abducted the victim girl and kept her at his relative's residence. Learned counsel further submits that after investigation, Police has not submitted any charge sheet against the appellant under Section 376 of the I.P.C. and Section 4 of the POCSO Act and charge sheet has only been submitted under Section 363, 365, 328, 34 of the I.P.C. read with Section 3(1)(r)(s)(w)/3(2)(v)(va) of the SC/ST Act. Learned counsel also submits that the appellant is in custody since 06.01.2020.

On the other hand, learned counsel for the State vehemently opposes the prayer for regular bail and submits that a minor girl has been kidnapped by the appellant and other co-accused persons.

Having heard learned counsel for the parties and taking into consideration the fact that the victim girl in her statement recorded under Section 164 of the Cr.P.C. has not disclosed that the appellant was actively involved in her abduction and the appellant is in custody since 06.01.2020, I am inclined to grant regular bail to the appellant.



This appeal is allowed.

Let the appellant, above named, be released on bail upon furnishing bail bond of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge 1st, Jehanabad in connection with Jehanabad Mahila P.S. Case No. 23 of 2019.

It is made clear that at the time of furnishing bail bond all the parties shall follow the guidelines regarding lockdown and social distancing.

(Anil Kumar Sinha, J)

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