

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.1405 of 2020**

Arising Out of PS. Case No.-58 Year-2019 Thana- MAHILA PS District- Jehanabad

Pappu Kumar Sharma Son of Shri Madheshwar Sharma Resident of Village -  
Sultanpur, P.S.- Hulasganj, District - Jehanabad

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Nilesh Kumar

For the Respondent/s : Mr.A.G.

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH**  
**ORAL ORDER**

3      24-09-2020                      The matter has been taken up through virtual  
  
Court proceeding.

Since the Court proceeding is non-functional in  
physical mode due to present pandemic COVID-19, the  
matter is listed with defects.

Learned counsel for the appellant undertakes to  
remove the defects within three weeks of resumption of  
Court proceedings.

In case of non removal of the defects within  
undertaken period, the office shall place the matter  
before the bench.

Heard learned counsel for the appellant and  
learned Special P.P. for the respondent-State.



The present appeal has been preferred on behalf of the appellant for setting aside the order dated 29.04.2020 passed by learned Additional Sessions Judge-I, Jehanabad whereby the appellant's prayer for bail in connection with Jehanabad Mahila P.S. Case No. 58 of 2019, registered for the offences punishable under Section 376(D) of the Indian Penal Code, Section 4 of the Protection of Children From Sexual Offences Act, 2012 and Sections 3(1)(r)(s)(w), 3(2)(v) of SC/ST (Prevention of Atrocities) Act has been rejected.

The prosecution case, as per the written report of Sabuja Kumari submitted to the Station House Officer of Jehanabad Mahila Police Station, is to the effect that on 02.09.2019, the informant was returning home after cutting grass, but on way, the appellant and co-accused Tetar Manjhi stopped her and forcefully ravished her.

It is submitted by learned counsel for the appellant that for the occurrence of 02.09.2019, the written report was submitted on 05.09.2019 and there is



no explanation for such delay. The informant was medically examined on 05.09.2019 when no internal or external injury was found on her body and the age of the informant was assessed between 16-17 years. The trial, however, has commenced in which the parents of the informant have been examined as P.Ws. 1 and 2 who have not supported the prosecution version and they have been declared hostile. Similarly, the victim has also been examined as P.W. 3 who has also not supported the accusation and she has also been declared hostile. It is further submitted that there is no likelihood of the trial being concluded in near future due to the exceptional circumstances created by the present pandemic COVID-19.

Learned A.P.P. submits that accusation is specific against the appellant and co-accused Tetar Manjhi and on conclusion of the investigation, charge-sheet has been submitted.

Considering the delayed lodging of the F.I.R,



the accusation not being corroborated by the medical opinion and the fact that accusation is not being supported by the victim during trial and due to the present pandemic, there is no likelihood of the trial being concluded in near future, the order dated 29.04.2020 passed by learned Additional Sessions Judge-I, Jehanabad is, hereby, set aside and the appellant above named is directed to be released on bail for a period of three months for the present on furnishing one surety to the satisfaction of the learned Additional Sessions Judge, 1, Jehanabad in connection with Jehanabad Mahila P.S. Case No. 58 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is ready to become the bailor of the appellant which may be transmitted by such surety to the learned Court concerned through e-mode.



The provisional bail of the appellant will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned Additional Sessions Judge, 1, Jehanabad in connection with Jehanabad Mahila P.S. Case No. 58 of 2019.

The learned Court below is at liberty to further extend the period of provisional bail if the lock down is not over in next three months.

If the appellant defaults for two consecutive occasions during trial, learned Trial Court will be at liberty to cancel the bail bonds of the appellant.

Accordingly, the appeal is allowed.

**(Dinesh Kumar Singh, J)**

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