

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1523 of 2020

Arising Out of PS. Case No.-35 Year-2020 Thana- KHIRHAR District- Madhubani

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1. Jitan Mahto @ Dinesh Mahto Son of Badri Mahto Resident of Village- Khanuatol, P.S.- Benipatti, District- Madhubani.
 2. Shambhu Kumar Mahto Son of Kishori Mahto Resident of Village- Giraul, P.S.- Khirhar, District- Madhubani.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ravi Prakash
For the Respondent/s : Mr. A.G.

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 29-09-2020 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 appellants 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 appellants and



learned Special P.P. for the respondent-State.

The present appeal has been preferred on behalf of the appellants for setting aside the order dated 22.06.2020 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Madhubani whereby the appellants' prayer for bail in connection with G.R. No. 14 of 2020, arising out of Khirhar P.S. Case No. 35 of 2020, registered for the offences punishable under Sections 376, 504, 506 of the Indian Penal Code, Section 4/6 of the Protection of Children From Sexual Offences Act, 2012 and Section 3(1)(r)(s)(w)(2) of SC/ST (Prevention of Atrocities) Act, has been rejected.

The prosecution case, as per the written report of Kajal Kumari @ Guria, submitted to the S.H.O, Khirhar Police Station is to the effect that co-accused Ramesh Kumar used to establish physical relationship with the informant on promise of marriage. On 21.03.2020 at 10:00 P.M, he came on a motorcycle and on promise to marry, took the informant to his paternal



house. However, in the early morning, when family members of co-accused Ramesh Kumar came to know about the presence of the informant in their house, it is alleged that appellant No. 1 Jitan Mahto @ Dinesh Mahto, who happens to be the father of co-accused Ramesh Kumar and other family members started abusing the informant by calling her caste name and kicked her out from the house. It is alleged against appellant No. 2 that in the next day i.e. on 22.03.2020, he came in the house of the informant and abused her by calling caste name.

It is submitted by learned counsel for the appellants that thrust of accusation is against co-accused Ramesh Kumar and the investigation has already been concluded.

A statement has been made in para 3 of the petition that appellants are not having any criminal antecedent and they are in custody since 21.05.2020.

Learned A.P.P submits that appellants are



named in the F.I.R.

Considering the fact that thrust of accusation is against co-accused Ramesh Kumar, the investigation has already been concluded and the appellants are not having any criminal antecedent, the order dated 22.06.2020 passed by learned Additional Sessions Judge-I-cum-Special Judge, Madhubani 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-I-cum-Special Judge, Madhubani in connection with Khirhar P.S. Case No. 35 of 2020.

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 appellants which may be transmitted by such surety to



the learned Court concerned through e-mode.

The provisional bail of the appellants will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10,000/- (ten thousand) each 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-I-cum-Special Judge, Madhubani in connection with Khirhar P.S. Case No. 35 of 2020.

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 appellants default 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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