

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1760 of 2020**

Arising Out of PS. Case No.-180 Year-2020 Thana- TEKARI District- Gaya

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Bipin Kumar S/o Basudeo Prasad Resident of Village-ARK Dhibariya, P.S.-
Tekari, District-Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Bachan Jee Ojha, Adv.
For the Respondent/s	:	Smt.Usha Kumari, Spl.P.P.
For the informant	:	Sri Ranjay Kumar Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 26-11-2020 Heard learned counsel for the appellant, learned

Spl.P.P. for the State and learned counsel for the informant

through video conferencing.

The instant appeal has been preferred against the
order dated 15.6.2020 passed by the learned Special Judge,
(POCSO Act), Gaya whereby the prayer for bail of the appellant
in connection with POCSO Case No. 54 of 2020 arising out of
Tekari P.S. Case No.180 of 2020 registered under sections 376,
323, 341, 342, 504 and 34 of the Indian Penal Code, section 4 of
the POCSO Act and section 3(i)(r)(s) of the SC/ ST (Prevention
of Atrocities) Act, was rejected.

As per allegation in the F.I.R., it is stated that one
Purushottam Kumar committed rape on the 15 year old daughter



of the informant. It is further stated that the next day on the informant going to the house of Purushottam Kumar to warn his family members, the accused persons including the appellant herein, abused and assaulted him and they threatened that he would be killed in case an F.I.R. was lodged.

It is submitted by learned counsel for the appellant that the allegation as levelled in the F.I.R. are not supported from the medical report. It is submitted that there is case and counter case between the parties, the case lodged by the appellant herein being prior to the present F.I.R. It is submitted that from perusal of the F.I.R. the main allegation is against Purushottam Kumar and the appellant has been falsely implicated by making up a story later on only for the reason that he happens to be the brother of the said Purushottam Kumar. The appellant has no criminal antecedent and is in custody since 4.6.2020. The investigation in the case has concluded.

The appeal is opposed by learned Spl.P.P. for the State as also learned counsel appearing for the informant.

It is submitted by learned counsel for the informant that not only the appellant is named in the F.I.R. but there is direct allegation against him of having assaulted, abused and threatened the informant. Even subsequently, the appellant has



been threatening the informant for which still another F.I.R. has been registered.

Having heard learned counsel for the parties and taking into consideration the submissions made on behalf of the parties, the main allegation being against Purushottam Kumar and the appellant being in custody since 4.6.2020, the Court is inclined to allow the appeal. The appeal is allowed and the order dated order dated 15.6.2020 passed by the learned Special Judge, POCSO Act, Gaya is set aside.

The appellant is directed to be enlarged on bail in connection with POCSO Case no. 54 of 2020 arising out of Tekari P.S. Case No.180 of 2020 on furnishing bail bond of Rs. 10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, POCSO Act, Gaya.

(Partha Sarthy, J)

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