

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3352 of 2019**

Arising Out of PS. Case No.-56 Year-2019 Thana- BANMANKHI District- Purnia

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1. BIPIN KUMAR Son of Ashok Sah R/o Bus Stand, Banmankhi, P.S.- Banmankhi, District - Purnea
 2. Ramesh Kumar @ Chotu Son of Girish Prasad Sah R/o village - Dargipatti, Banmankhi, P.S.- Banmankhi, District - Purnea

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Dr. Bidhu Ranjan, Advocate

For the Respondent/s : Mr.Sadanand Paswan, SPP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER**

6 06-02-2020 Heard learned counsel for the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for anticipatory bail vide order dated 28.06.2019 by the learned 1st Additional Sessions Judge-cum-Special Judge (POCSO Act), Purnea, in A.B.P. No.20 of 2019/CIS No.20 of 2019, arising out of Banmankhi Police Station Case No.56 of 2019, registered under Sections 376/511/354B/506/34 of the Indian Penal Code, Section 12 of POCSO Act and Section 3(r)(s)(w) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.



According to FIR, three girls including the informant, aged about 28 years, a married woman, were cutting grass in the field-side. At the same time, three persons came there and started touching them and attempted to ravish them. On alarm they manage their escape and co-accused Ajay Kumar @ Babu was apprehended by the villagers. The informant further disclosed the name of appellant Bipin Kumar as the person who had fled away. The two minor girls, whose statement under Section 164 Cr.P.C. was recorded, stated that, he was co-accused Ajay Kumar, who had torn their clothes. The informant in her statement under Section 164 Cr.P.C. is not specific against anyone.

On the basis of the aforesaid material, learned counsel for the appellants submits that offence under the POCSO Act is not made out against the appellants as they are not alleged to have done anything against the minor girls. The offences under the SC/ST Act are not made out against the appellants as the appellants had no knowledge that the three girls were members of the scheduled tribes nor there is any such evidence; rather the appellants are residents of some different village than that of the informant. The appellants have got no criminal antecedent. Contention is that at best offence under



Section 354B of the Indian Penal Code is made out which is bailable one.

Finding substance in the submission aforesaid, let the appellants, above named, in the event of their arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bonds of Rs.20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the appellants shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellants.

The appellants shall not leave the country without permission of the trial Court.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Birendra Kumar, J)

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