

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4192 of 2019**

Arising Out of PS. Case No.-73 Year-2019 Thana- WARISNAGAR District- Samastipur

SHIV SAH @ SHIVA SAH @ SHIV KUMAR SAH Son of Hari Sah
Resident of Village- Maniarpur, P.S- Warisnagar, District- Samastipur.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Pankaj Kumar

For the Respondent/s : Mr.Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

7 18-09-2020 Due to COVID-19 Pandemic, the matter is being
taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the appellant and learned
counsel for the State. A supplementary affidavit has been filed
on behalf of the appellant which is kept on record.

The present appeal has been preferred by the
appellant against the order dated 28.06.2019 passed by learned
Special Judge, SC/ST Act-cum- Additional District and Sessions
Judge-1st, Samastipur in Warisnagar P.S. Case No. 73 of 2019
registered under sections 354, 363, 366(A), 34 of the Indian
Penal Code, 3 (i)(w)/3(2)(v)(a) of the SC/ST Act and Section 8
of POCSO Act by which the learned Special Judge, SC/ST Act-



cum- Additional District and Sessions Judge-1st, Samastipur has rejected the prayer of the appellant for grant of bail.

The prosecution allegation, in brief is that the accused persons caught hold of the informant and abducted her when she left the house for easing.

It has been submitted on behalf of the appellant that the appellant is in custody since 28.05.2019 and has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellant. Charge-sheet has been submitted in the case. The appellant has falsely been implicated in the present case. The medical examination report of the victim is part of the case diary. From perusal of the medical report, it appears that no spermatozoa was found. As per the opinion of the doctor, it does not appear that the rape has been committed. The age of the victim is assessed to be 16-17 years by the Medical Board. The medical examination report of the victim does not support the allegations made in the F.I.R.

On behalf of the State, it is submitted that the appellant is named in the F.I.R.

Considering the aforesaid facts and circumstances, the order dated 28.06.2019 passed by learned Special Judge, SC/ST Act-cum- Additional District and Sessions Judge-1st,



Samastipur in Warisnagar P.S. Case No. 73 of 2019, is set aside.

The appeal is allowed.

Let the appellant, above named, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act-cum- Additional District and Sessions Judge-1st, Samastipur in connection with Warisnagar P.S. Case No. 73 of 2019.

(Sudhir Singh, J)

Pankaj/-

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