

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5109 of 2019**

Arising Out of PS. Case No.-160 Year-2018 Thana- KANHAULI District- Sitamarhi

1. Vijay Kapar, Son of Nagendra Kapar, Resident of Village- Khap, P.S.- Kanhauli, District- Sitamarhi.
2. Rohit Kapar @ Rohit Kumar, Son of Neta Kapar @ Netanand Kapar Resident of Village- Khap, P.S.- Kanhauli, District- Sitamarhi.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Ashhar Mustafa, Advocate.
For the Informant	:	Mr. Puslpendra Kuamr Singh, Advocate.
For the Respondent/s	:	Mr.Usha Kumari 1, APP

**CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR
MISHRA**

ORAL ORDER

3 06-01-2020 Heard learned counsel for the parties.

This appeal, under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, has been filed against the order dated 22.10.2019 passed in Kanhauli P.S. No. 160 of 2018, whereby the learned Ist Additional Sessions Judge-cum-Special Judge (SC/ST Act), Sitamarhi, rejected the bail of the appellants for the offence punishable under Sections 302, 201 and 120B of the Indian Penal Code and Sections 2(ii)(v)(vi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

The persecution case is that in the evening of 22.12.2018 , Abhishekh Kumar, son of the informant Nagendra



Baitha, aged about 16 years, had gone out side the house but he did not return. Thereafter, he talked on mobile of his son who informed that he will return after 10 to 15 minutes but his son did not return and later on, mobile of his son was switched off. In course of search, he was informed by his daughter, Rubi Kumari and daughter-in-law, Mamta Kumari that his son, Abhishekh Kumar has love affairs with Priti Kumari, daughter of Rakesh Kapar of village Khap, P.S. Kanhauli. The informant raised suspicion about having hand of Rakesh Kapar and others in kidnapping and murder of his son.

Learned counsel for the appellants submits that both petitioners are not named in the FIR but in course of investigation, Rakesh Kapar, father of Priti Kumari, was apprehended, who confessed his guilt about committing murder of son of the informant with the help of appellants. Further submission is that initially, the case was not instituted for the office of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act but on investigation, the police on investigation submitted charge sheet adding Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Further submission is that co-accused, Rakesh Kapar, father of Priti Kumari, has allowed privilege of bail by a Bench of this Court vide order dated



01.05.2019 passed in Criminal Misc. No. 18598 of 2019.

Accordingly, the impugned order dated 22.10.2019 passed in Kanhauli P.S. Case No. 160 of 2018 is set aside and this appeal stands allowed. Let the petitioners above named, are directed to be released on bail on furnishing bail bond of Rs.10,000/-(Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the Ist Additional Sessions Judge-cum-Special Judge (SC/ST Act), Sitamarhi, in connection with Kanhauli P.S. No. 160 of 2018. Out of two sureties, one surety must be the close relative of the petitioner.

(Rajendra Kumar Mishra, J)

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