

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.1632 of 2021**

Arising Out of PS. Case No.-850 Year-2019 Thana- TURKAULIYA District- East
Champaran

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PRADEEP SRIVASTAVA SON OF LALAN SRIVASTAVA R/O VILLAGE-
CHILVANIYA, P.S- BANJARIYA, DIST- EAST CHAMPARAN

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant/s	:	Mr. Umesh Chandra Verma, Advocate
	:	Mr. Abhishek Kumar, Advocate
For the Respondent/s	:	Mr. Binay Krishna, Spl. PP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-04-2021 Learned counsel for the appellant undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellant and learned Spl.
P.P. for the State.

The present appeal has been preferred for setting aside the order dated 04.11.2020 passed by learned 6th Additional Sessions Judge-cum-Special Judge, POCSO, Motihari, East Champaran in POCSO Trial No. 14 of 2020 arising out Turkauliya (Banjariya) P.S. Case No. 850 of 2019 registered for the offences punishable under Sections 363, 366(A), 376 and 34 of the Indian Penal Code and Section 3(1), (r), (w) of the SC/ST (POA) Act whereby prayer for bail of the appellant was rejected.



Learned counsel for the petitioner submits that as per the prosecution story, the informant who is the father of the minor victim girl has alleged that on 03.11.2019 while the informant's daughter was going to the Chhat Ghat, this appellant and other co-accused had forcibly taken away her towards Ambika Nagar. The villagers who witnessed this incident had informed this to the informant. The informant reported this to the father of the appellant who ensured that her daughter will be released. It is alleged that after 8-10 days her daughter was released and during that course, the appellant has committed rape with her. It is further alleged that the appellant informed the informant on his phone regarding preparation of vulgar photo and video and threatened for putting same on facebook.

Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case due to dirty village politics. Learned counsel further submits that there is inordinate delay of 15 days in lodging F.I.R. without any explanation. It is submitted that the appellant has got no criminal antecedent and he is in custody since 23.12.2019.

Learned Spl. P.P. for the State is present and has opposed the prayer for regular bail of the appellant.

Having regard to the facts and circumstances of the case, wherein there is specific allegation against the appellant that



he had forcibly taken away the minor daughter of the informant, kept her with himself for ten days, made vulgar videos of the victim girl on the point of knife and released the same on the internet apart from sending it to her brother on his mobile, the observations of the learned Special Judge based on the materials on the record showing that the victim girl has herself made statement that the appellant had obtained vulgar pictures/videos on the point of knife, this Court is not inclined to release the appellant on bail. The prayer for bail is thus, refused.

Considering that the appellant is in custody since 23.12.2019, the trial court is expected to proceed with the trial on day to day basis and ensure conclusion of trial as expeditiously as possible keeping in view the scope of the POCSO Act. The prosecution must cooperate by producing all the witnesses on the date fixed in the matter.

This appeal is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

