

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 1695 of 2021**

Arising Out of PS. Case No.-292 Year-2018 Thana- KARAHGAR District-
Rohtas

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JASWANT SAH Son of Late Dinesh Sah Resident of Village - Bhaisadih,
P.S.- Kargahar, District - Rohtas at Sasaram.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr Babu Nandan Prasad, Advocate
For the Respondent/s : Mr Sada Nand Paswan, Special PP

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 31-05-2021

This case has been listed today for consideration through
Video Conferencing.

2 Mr Sadanand Paswan, learned Special PP submits that
he has received soft copy of the case diary.

3 Heard learned counsel for the appellant and the
learned Special PP for the State.

4 The appellant has preferred the present Appeal
under Section 14 - A (2) of Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act (for brevity, *SC/ST Act*)
against the refusal of his prayer for regular bail vide order
dated 09.01.2021 passed by Additional Sessions Judge VI,
Exclusive Special Court, Prevention of Children from Sexual
Offences (for brevity, *POCSO*) Act, Rohtas at Sasaram in a
case registered under Sections 366A, 376/34 of Indian Penal
Code, Section 4 of POCSO Act and Sections 3 (2) (V) (G) of
SC/ST Act in connection with Kargahar Police Station (for
brevity, *PS*) Case No 292 of 2018 dated 20.07.2018.



5 Informant has alleged that his minor daughter has been taken away by the appellant aided by his elder brother and mother who have also been made accused. The informant has further alleged that they may have taken her away for subjecting her to immoral traffic.

6 Appellant's counsel submits that the entire case of the informant is belied by the statement of the victim girl who is 17 years old. In her statement recorded under Section 164 of Criminal Procedure Code, taken note of in paragraph 73 of case diary, she has stated about familiar relations with the appellant and residing with him at Delhi and that when he refused to marry, she was returned to her home. The submission is that even in her statement, she has not stated that the appellant has established physical relations with her. The appellant has no criminal antecedent. It is submitted that implication of the appellant and his family is based on extraneous considerations and the appellant has been in custody since 09.01.2020.

7 Learned Special PP Mr Sadanand Paswan appearing for the State submits that since victim has stated that she was residing with the appellant at Delhi for a considerable period of time, presumption of physical relationship may arise.

8 In my opinion, in view of nature of accusation in the FIR, and submission of parties a case for grant of regular bail is made out. The impugned order dated 09.01.2021 requires interference by this Court, which is, accordingly, set aside.

9 This appeal is allowed. The impugned order dated 09.01.2021 passed by Additional Sessions Judge VI, Exclusive Special Court, POCSO Act, Rohtas at Sasaram in



connection with Kargahar PS Case No 292 of 2018 dated 20.07.2018 is set aside.

10 Let the appellant above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge VI, Exclusive Special Court, POCSO Act, Rohtas at Sasaram in Kargahar PS Case No 292 of 2018 dated 20.07.2018 subject to the following conditions:

(1) That one of the bailors will be a close relative of the appellants who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(2) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

