

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1684 of 2021

Arising Out of PS. Case No.-842 Year-2020 Thana- HAJIPUR District- Vaishali

1. SUMIT KUMAR Son of Jogi Das @ Shobhi Ram Permanent address Village - Bhatauliya Pakauli @ Lalu Chhapra, P.S.- Paroo, District - Muzaffarpur, At present resident of Thana Chowk, Mufti Mohalla, P.S.- Hajipur Town, District - Vaishali at Hajipur.
2. Md. Firoz @ Md. Ehsan Son of Md. Khursid @ Md. Salim Resident of - Choudhari Mubarak Gali, Masjid Chowk, P.S.- Hajipur Town, District - Vaishali at Hajipur.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Anish Chandra, Advocate
For the Respondent/s : Mr.Binay Krishna, Special PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 21-06-2021 In view of resurgence of COVID – 19 infection there is limited functioning of the High Court and therefore the matter has been listed for consideration through virtual mode.

Heard learned counsel for the appellants and the learned Special P.P. for the State.

This Court would expect that the appellants' counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

The appellants have preferred the present appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of his prayer for bail, vide order dated 11.1.2021 passed by the learned Exclusive Special Court Pocso -cum- Children-cum- Additional District and Sessions Judge, VI, Vaishali at Hajipur in Hajipur



Town P.S. Case No. 842 of 2020 instituted for the offence under Section 376, 511/34, 354(D) of the Indian Penal Code, and Sections 8, 12 of the Pocso Act read with 3(i) W(i)(ii) of the SC/ST (POA) Act, 2015 and also for setting aside the aforesaid order dated 11.1.2021.

Two appellants along with co-accused have sexually harassed mother of the informant and tried to commit rape upon the victim, a girl child aged about 13 years while she was alone at home.

It is submitted by learned Counsel for the appellants that even as per prosecution case no rape has been committed. Allegation is that the appellants have been apprehended by the local persons while they were attempting to rape the minor girl. The implication is based on some extraneous consideration as the informant and the victim are neighbours of the instant appellants. Realising the mistaken implication of the appellants (who are neighbours) a petition has been filed by the informant in the court below stating that no such occurrence has taken place as has been alleged in the FIR. The appellants are stated to be man of clean antecedents and are in custody since 24.12.2020.

Learned Special PP has opposed the prayer for bail stating that the allegations are of attempt to rape against a minor girl.

Considering the rival submissions, this Court is inclined to allow appellants' prayer for bail.

Accordingly, let the appellants, above named, be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Exclusive Special Court Pocso -cum-



Children-cum- Additional District and Sessions Judge, VI,
Vaishali at Hajipur in connection with Hajipur Town P.S. Case
No. 842 of 2020.

In the result, the appeal is allowed and the impugned
order dated 11.1.2021 is set aside

(Madhuresh Prasad, J)

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