

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2899 of 2021**

Arising Out of PS. Case No.-63 Year-2019 Thana- MAHILA P.S. District- Muzaffarpur

Vikas Kumar, S/O Sanjay Rai, R/O Village-Kolli Bharav, Muchhua, P.S.-
Meenapur, District Muzaffarpur

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr.Radhe Shyam, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER**

4 07-09-2021 Heard Mr. Yogesh Chandra Verma, learned Senior
Counsel appearing for the appellant and the learned Special
P.P. for the State.

The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of his prayer for regular bail, vide order dated 04.06.2021 passed by the learned court of Additional Sessions Judge-VII-cum-Special Judge, POCSO Act, Muzaffarpur, in connection with G.R. No.135 of 2019 arising out of Muzaffarpur Mahila P.S. Case No.63 of 2019 instituted for the offence under Sections 376(D), 341, 323, 506 of the I.P.C., Section 4/6 of POCSO Act and Sections 3(i)(r)(s)(w),3(2)(v) of SC/ST Act and also



for setting aside the aforesaid order dated 04.06.2021.

While the informant was returning from her School, she has alleged that she rode in a tempo in which three persons were sitting from before. They have taken her to a room where they all have committed rape upon her.

Mr. Yogesh Chandra Verma, learned Senior Counsel representing the appellant submits that the appellant's name has come in this case merely on the allegation of the informant that they were conversing with one another. One of the perpetrators was referred to as Vikas. Whether appellant is the same Vikas, who has committed rape, is not apparent from the allegation nor has he been put on T.I. Parade. The informant has lodged the FIR on 10th December, 2019 whereas the occurrence has taken place on 09th December, 2019. The delay in lodging of the FIR casts a grave suspicion on the prosecution story. The medical report also does not find any sign of injury, therefore the allegation of rape also appears to be a case of false implication. It is further submitted that one of the co-accused, namely, Abhishek Kumar, has been allowed bail in Cr.Appeal(SJ) No.1390 of 2020.

Further submission is that the entire prosecution



case is false as is evident from the fact that the informant had not attended the School on 09.12.2019, on which date she has alleged that while returning from School, the alleged occurrence has taken place. In support of the submission, reliance has been placed on the certificate issued by the Principal of the School that the victim was absent from School on the fateful day.

Learned Special P.P. has opposed the prayer for bail. It is submitted that one of the perpetrators was Vikas. The appellant's name is also Vikas and therefore he should be treated as a named accused.

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

Accordingly, let the appellant, 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 Additional Sessions Judge-VII-cum-Special Judge, POCSO Act, Muzaffarpur, in connection with Muzaffarpur Mahila P.S. Case No.63 of 2019.

In the result, the appeal is allowed and the impugned order dated 04.06.2021 is set aside.

This Court would expect that the appellant's



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.

(Madhuresh Prasad, J)

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