

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1761 of 2020

Arising Out of PS. Case No.-302 Year-2018 Thana- BYPASS District- Patna

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AVINASH KUMAR @ GOLU S/o Sohan Kewat @ Sohan Choudhary
Resident of Mohalla-Hamampur, P.S.-Khajekalan, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Rekha Devi D/o Ganga Paswan Resident of Maharani Colony, Agamkuan,
P.S.-Bypass, District-Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ansul, Adv.
For the State	:	Mr. Usha Kumari-I, Spl. P.P.
For the Informant	:	Mr. Akhori Kamal Kishore Sahay, Adv.

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

4 11-01-2021 Heard learned counsel for the appellant, learned

Special Public Prosecutor for the State and learned counsel for

the informant.

The instant appeal has been filed by the appellant against the order dated 4.5.2019 passed by the learned Special Judge SC/ST Act, Patna whereby the prayer for bail of the appellant in connection with Special Case No. 664 of 2018 (arising out of By Pass P.S. Case No. 302 of 2018) registered under sections 363, 504, 506 and 376 of the Indian Penal Code, section 3(2) (va) of the SC/ST (Prevention of Atrocities) Act and section 4 of the POCSO Act was rejected.

The allegation against the appellant is of having kidnapped the minor sister of the informant.



It is submitted by learned counsel for the appellant that the earlier appeal preferred by the appellant praying for bail in the instant case was rejected vide order dated 5.9.2019 (Annexure-1) directing the learned Trial Court to expeditiously conclude the trial within six months after framing of charge and the Senior Superintendent of Police, Patna was directed to ensure the production of the witnesses on each date fixed. It is submitted that the appellant has remained in custody for over two years since 27.11.2018.

The appeal is opposed by learned Spl.P.P. for the State and learned counsel for the informant.

By order dated 26.11.2020 a report with respect to the stage of trial was called for and the same has been received contained in letter dated 2.1.2021. According to the report, charges were framed in the case on 23.9.2019 and one prosecution witness, who happens to be the sister of the victim, has been examined and cross examined in February, 2020.

Having heard learned counsel for the parties and on going through the report received from the learned Court below, it transpires that no witness has been examined in the last almost eleven months. Further the observation in the earlier order rejecting the appeal preferred by the appellant on 5.9.2019 was



to conclude the trial within six months of framing of charge. Although the charge was framed on 23.9.2019, however, only one prosecution witness has been examined and six witnesses remain to be examined.

On being asked by the Court, it was submitted by learned counsel for the informant that the informant is ready to produce the remaining prosecution witnesses on each date of the trial.

In view of the facts and circumstances of the case, the Court is not inclined to allow this appeal but it is directed that the learned Trial Court will expeditiously examine all the witnesses and conclude the trial within three months from the date of receipt of a copy of this order.

It is further directed that so far as the official witnesses, if any, are concerned, the Senior Superintendent of Police, Patna shall ensure their production in the trial on each date.

The appeal stands rejected.

(Partha Sarthy, J)

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