

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 2959 of 2021**

Arising Out of PS. Case No.-58 Year-2021 Thana- SANDESH District- Bhojpur

KAMAL NARAYAN @ KAMAL NARAYAN KUMAR S/O BHOLA
YADAV R/O CHILHAUS, P.S-SANDESH, DISTRICT-BHOJPUR.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr Dharendra Kumar Sinha, Advocate
For the Respondent/s : Mr Sadanand Paswan, Special PP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 24-08-2021

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

2 Heard learned counsel for the appellant as well as the learned Special Public Prosecutor (for brevity, *Special PP*) appearing for the State of Bihar.

3 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 04.06.2021 passed by Additional Sessions Judge I, Bhojpur, Ara in a case registered under Section 366A of Indian Penal Code and Sections 3 (i) (r) (s)/3 (2) (va) of SC/ST Act in connection with SC/ST Case



No 59 of 2021 arising out of Sandesh Police Station (for brevity, *PS*) Case No 58 of 2021.

4 The allegation is that the appellant has enticed and abducted the 17 years old minor girl.

5 Mr Dhirendra Kumar Sinha, learned counsel for the appellant submits that it is a false case. In medical examination, the victim has been found to be 17 – 19 years. There is no sign of any rape and having no criminal antecedent, the appellant is in custody since 13.03.2021. In fact, the victim is a major and the prosecution has been launched by her mother under duress. The records further reveal that there is inconsistency in the statement of the victim recorded under Section 161 of Cr P C and Section 164 of Cr P C. She has not alleged any coercion by any means. The manner in which she was recovered, while on way to Kulharia along with the appellant, is suggestive of the falsity of the allegations.

6 Learned Special PP has submitted that the victim has, in her statement recorded under Section 164 of Criminal Procedure Code (for brevity, *Cr P C*), stated that she was forcibly taken away by the appellant and kept at Mathiya for three days. Thereafter, they were noticed by the police while they were on way to Kulharia and, accordingly, the appellant has been arrested.



7 In my opinion, in view of nature of accusation in the First Information Report, and submission of parties, a case for grant of regular bail is made out. The impugned order dated 04.06.2021 requires interference by this Court, which is, accordingly, set aside.

8 This appeal is allowed. The impugned order dated 04.06.2021 passed by Additional Sessions Judge I, Bhojpur in connection with SC/ST Case No 59 of 2021 arising out of Sandesh PS Case No 58 of 2021 is set aside.

9 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 I, Bhojpur, Ara in SC/ST Case No 59 of 2021 arising out of Sandesh PS Case No 58 of 2021 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	27.08.2021
Transmission Date	27.08.2021

