

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2958 of 2021

Arising Out of PS. Case No.-339 Year-2020 Thana- PURNEA SADAR District- Purnia

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AJAY KUMAR SHARMA @ AJAY SHARMA @ AJAY SRIVASTAV Son of
Late Bhola Sharma @ Bhala Srivastava Resident of Village - Dak Bungalow
Chowk, Line Bazar, P.S. - K. Hat, District - Purnea.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Praveen Kumar Agrawal, Adv.
For the Respondent/s : Mr.Sadanand Paswan, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 04-08-2021

This case has been listed today for consideration through
video conferencing.

2. Heard learned counsel for the appellant and 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), 1989
against the refusal of his prayer for regular bail vide order dated
28.06.2021 passed by Additional Sessions Judge VI-cum-Special
Judge (POCSO), Purnea in a case registered under Sections 363,
366A of the Indian Penal Code in connection with Spl (POCSO)



Case No. 94 of 2020, arising out of Sadar Police Station (for brevity, PS) Case No. 339 of 2020 dated 25.09.2020.

4. As per the informant's allegation her daughter aged about 17 years old has been enticed by the appellant's brother.

5. Learned counsel for the appellant submits that appellant's implication is only by virtue of his relation as brother of named accused Kunal Shrivastava. Even as per the FIR appellant has not been made accused. The victim under duress has tried to improve the allegation in her statement recorded under Section 164 Cr.P.C. wherein she has taken the name of appellant as being a facilitator to her being taken away on motorcycle. Allegation of forcible marriage and physical abuse is made against appellant's brother. There is no such allegation against the appellant, even as per statement of the victim under Section 164 Cr.P.C. which has been taken note of in the order of rejection passed by the Special Judge POCSO Act, Purnia under appeal. Appellant is in custody since 21.01.2021.

6. Learned Special PP submits that in her statement which has been taken note of in the order under appeal the victim has stated that appellant sitting behind the victim on the motorcycle had covered her mouth and on account thereof she had fainted.



7. 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 28.06.2021 requires interference by this Court, which is, accordingly, set aside.

8. This appeal is allowed. The impugned order dated 28.06.2021 passed by the Additional Sessions Judge VI-cum-Special Judge (POCSO), Purnea in connection with Spl (POCSO) Case No. 94 of 2020, arising out of Sadar P.S. Case No. 339 of 2020 dated 25.09.2020 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 VI-cum-Special Judge (POCSO), Purnea in Spl (POCSO) Case No. 94 of 2020, arising out of Sadar P.S. Case No. 339 of 2020 dated 25.09.2020, subject to the following conditions:

(i) That one of the bailors will be a close relative of the appellant 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.



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

(Madhuresh Prasad, J)

rakhi/-

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CAV DATE	N.A.
Uploading Date	
Transmission Date	

