

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.159 of 2021**

Arising Out of PS. Case No.-9 Year-2020 Thana- GAUNAHA District- West Champaran

BADAL SAH Son of Dashrath Sah Resident of Village - Belwa Bahuari, P.S.-
Gaunaha, District - West Champaran.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Brij Kishor Mishra, Advocate

For the Respondent/s : Mr.Sadanand Paswan, Spl.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 07-07-2021 Heard learned counsel for the appellant and Mr.
Sadanand Paswan, learned Spl.P.P. for the State.

The appellant in the present case is seeking setting aside of the order dated 04.07.2020 passed by learned 1st Additional District & Sessions Judge-cum-Special Judge (SC/ST/POCSO), Bettiah, West Champaran in connection with Gaunaha P.S. Case No. 09 of 2020 registered for the offences punishable under Sections 363, 366(A) of the Indian Penal Code, Section 8 of the Protection of Children from Sexual Offences Act and Section 3(i)(r)(va) of the SC/ST (Prevention of Atrocities) Act whereby and whereunder the prayer for bail of the appellant was rejected.

Learned counsel for the appellant submits that as per the prosecution story when the victim girl went to attend call of



nature, this petitioner and one Baba Shah kidnapped her on the point of pistol and this incident was seen by one Ragho Mukhiya.

Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in the present case. It is submitted that the victim girl has declared her age as 18 years and in her 164 Cr.P.C. statement she says that she had gone on her own volition with this appellant. It is further submitted that there is no allegation of commission of any indecent act to the victim girl. The appellant is in custody since 11.02.2020 having no criminal antecedent.

Learned Spl.P.P. for the State has opposed the prayer for bail of the appellant.

Having regard to the facts and circumstances of the case wherein it is the submission of learned counsel for the appellant and not controverted by learned Spl.P.P. for the State that the victim girl has declared her age as 18 years, the medical examination report finds her age in between 17-19 years and in her statement under Section 164 Cr.P.C. she says that she had gone on her own volition with this appellant and had stayed with him for about 10 days in the State of Haryana, she has not alleged any indecent act against the appellant, the appellant has remained in jail in connection with this case since 11.02.2020,



investigation against him is complete but the trial is not likely to be concluded in near future, the appellant has otherwise no criminal antecedent, considering these aspects of the matter, this Court sets aside the impugned order and directs release of the appellant above named on bail on furnishing of bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned 1st Additional District & Sessions Judge-cum-Special Judge (SC/ST/POCSO), Bettiah, West Champaran in connection with Gaunaha P.S. Case No. 09 of 2020, subject to the conditions as laid down under Section 437(3) Cr.P.C. as under:

(a) that such person shall attend in accordance with the conditions of the bond executed under this Chapter,

(b) that such person shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which is suspected, and

(c) that such persons shall not directly or indirectly make and inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

And further condition that the court below shall



verify the criminal antecedent of the appellant and in case at any stage it is found that the appellant has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the appellant. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

The appeal stands allowed.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

