

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3419 of 2021**

Arising Out of PS. Case No.-389 Year-2019 Thana- PARSA District- Saran

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SANOJ KUMAR RAI Son of Madan Rai Resident of Village - Parsadi, P.S.-
Parsa, District - Saran at Chapra (Bihar).

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Rakesh Kumar
For the Respondent/s : Mr.Binay Krishna

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2 03-09-2021 This matter is taken up for consideration through
Video Conferencing.

Heard learned counsel for the appellant and the State.

The present memo of appeal has been filed on behalf of the appellant for grant of bail against the order dated 27.07.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST Act), Saran at Chapra in connection with Parsa P.S. Case No. 389 of 2019 under Sections 365/366(A) of the Indian Penal Code and section 3(i)(r)/3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, whereby the prayer for bail of the appellant was rejected.

Prosecution case in brief is that on 07.12.2019 at 5.00 am while the daughter of informant had gone to attend the call



of nature all the accused persons including the appellant kidnapped the daughter of informant with illicit purpose.

It is submitted on behalf of the appellant that specific allegation of committing rape with the daughter of informant is against co-accused Akhilesh. So far as this appellant is concerned, there is general and omnibus allegation. No specific overt act has been alleged against this appellant. The occurrence is said to have taken place on 07.12.2019, but the FIR was lodged on 24.12.2019 i.e. after lapse of 17 days without any plausible explanation. It is further submitted that the victim girl has returned to her house on 20.12.2019 and after four days FIR has been lodged. In 164 statement the victim has stated her age to be 24 years and the court below also assessed her age 24 years. A joint compromise petition has also been filed in the court below. Similarly situated co-accused Vidhan Rai and Sikandar Rai have been granted bail by the court below itself. No case under SC/ST Act is made out, as the occurrence has not taken place within public view. Appellant has got clean antecedent and he is in custody since 22.06.2021. Investigation is complete.

Considering the aforesaid facts, this appeal is allowed. The impugned order dated 27.07.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST Act),



Saran at Chapra is set aside.

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 1st Additional Sessions Judge-cum-Special Judge (SC/ST Act), Saran at Chapra in connection with Parsa P.S. Case No. 389 of 2019, subject to following conditions:-

(i) The appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(ii) If the appellant tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the appellant.

(Prabhat Kumar Singh, J)

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