

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3420 of 2021**

Arising Out of PS. Case No.-142 Year-2019 Thana- MANER District- Patna

RAHUL KUMAR Son of Sharda Rai @ Vijay Rai Resident of Village -
Dostnagar Brahmachari, P.S.- Maner, Distt.- Patna.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Manoranjan Kumar, Advocate
For the Respondent/s : Mr. Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

2 22-10-2021 Heard learned counsel for the appellant and learned
Spl. P.P. for the State through virtual mode.

Counsel for the appellant is directed to remove the
defect(s), as pointed out by the office, within a period of eight
weeks.

The appellant has challenged the order dated
29.06.2021 passed by learned A.D.J. III-cum-Special Judge,
SC/ST Act, Patna in connection with Maner P.S. case No.142 of
2019 registered for the offences under Sections 366A, 504, 506,
34 of the Indian Penal Code and Sections 3(r)(s) of the SC/ST
(Prevention of Atrocities) Act, 1989, whereby the prayer made
on behalf of the appellant for grant of anticipatory bail has been
rejected.



The prosecution case, in short, is that the appellant abducted the daughter of the informant and gave abuse to the wife of the informant on mobile phone.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent and there is no allegation of tampering of witnesses alleged against the appellant. The appellant has falsely been implicated in the present case. The victim has been recovered. Her statement under Section 164 Cr.P.C. has been recorded by the Magistrate on 27.03.2019, which is against this appellant. It has also been submitted on behalf of the appellant that the said statement of the victim has been influenced by the parents of the victim. It is further pointed out that prior to recording of the statement under Section 164 Cr.P.C., a complaint case was filed by the victim against her parents alleging that they have falsely tried to implicate the appellant in the present case and the victim has got married with the appellant. Said complaint case was filed on 27.02.2021 i.e. prior to recording of her statement under Section 164 Cr.P.C. The statement of the victim in the said Complaint Case No.287(c) of 2021 was recorded on 04.03.2021 and in her statement on S.A. in the said complaint case before the Magistrate, the victim has stated that she has got married with



the appellant out of her own will. Her statement on S.A. in connection with the said complaint case has been recorded by the Magistrate prior to the statement recorded under Section 164 Cr.P.C. of the victim. There is no reason to disbelieve the first statement of the victim. The complaint case filed by the victim is Annexure 5 to the present appeal and her statement under Section 164 Cr.P.C. is Annexure 3 to the present appeal. The alleged occurrence has not taken place within public view. Hence no offence under the SC/ST Act is attracted in the present case.

On behalf of the State, it is submitted that the appellant is named in the F.I.R.

Considering the aforesaid facts and circumstances, the order dated 29.06.2021, passed by the learned A.D.J. III-cum-Special Judge, SC/ST Act, Patna vide A.B.P. No.3622 of 2021 in connection with Maner P.S. case No.142 of 2019, is set aside.

Let the appellant, above named, in the event of arrest or surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned A.D.J. III-cum-Special Judge, SC/ST Act, Patna in



connection with Maner P.S. case No.142 of 2019.

The criminal appeal stands allowed.

(Sudhir Singh, J)

Narendra/-

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