

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2113 of 2020

Arising Out of PS. Case No.-576 Year-2019 Thana- BARACHATTI District- Gaya

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Gautam Kumar, male, aged about 24 years, Son of Shyamdev Mistri, Resident
of Village- Mahkampur, P.S.- Barachatti, District- Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Md. Javed Jafar Khan, Adv.

For the Respondent/s : Mr. Vinay Krishna, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 01-03-2021 Heard Md. Javed Jafar Khan, learned Advocate for

the appellant and Mr. Vinay Krishna, learned Special Public

Prosecutor for the State.

This appeal is directed against the order dated
26.08.2020 passed by the learned Exclusive Special Court
Judge (POCSO Act), Gaya in connection with POCSO Case
No. 133 of 2019 arising out of Barachatti P.S. Case No. 576
of 2019, dated 28.11.2019, registered for the offences



under Section 366(A) of the Indian Penal Code and Sections 4/6 of the Prevention of Children from Sexual Offences Act, 2012, whereby the prayer for grant of bail of the appellant has been rejected.

Learned counsel for the appellant has submitted that from the perusal of the First Information Report itself it would appear that the Victim was regularly been stalked by one Dipak Kumar. On one morning, the victim was abducted and, therefore, her father suspected that aforesaid Dipak Kumar or his parents must have taken his daughter to some unknown destination for immoral purposes. It has further been pointed out that after the recovery of the victim girl, she gave her statement under Section 164 Cr.P.C. in which, she has stated that Dipak Kumar along with this petitioner had abducted her but so far as the allegation of committing rape with the victim is concerned, that has solely been attributed to Dipak Kumar not to the petitioner. In the 164 Cr.P.C. statement of the victim girl, the reference of the petitioner is only as a person who drove the motorcycle on which the victim as well as Dipak Kumar were made to sit.



Learned counsel for the petitioner has submitted that only because the petitioner had once been a friend of aforesaid Dipak Kumar, he has been roped in this present case. Apart from this, it has been submitted that no misdemeanour against the victim has been alleged against the petitioner. Aforesaid Dipak Kumar, on being found a juvenile, has been released from the Remand Home.

The appellant is stated to be in custody since 23.05.2020.

This Court had called for a report about the stage of the case, which indicates that cognizance in this case has already been taken and the case is pending for appearance of those accused persons who are not in custody and non-bailable warrants have also been issued against them.

Regard being had to the facts afore-stated, the order dated 26.08.2020, referred to above, is set-aside.

The appellant/Gautam Kumar is directed to be released on bail on his furnishing bail bond in sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive



Special Court Judge (POCSO Act), Gaya in connection with
in connection with POCSO Case No. 133 of 2019 arising out
of Barachatti P.S. Case No. 576 of 2019.

The appeal stands allowed.

(Ashutosh Kumar, J)

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