

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.274 of 2021**

Arising Out of PS. Case No.-3 Year-2019 Thana- MAHILA PS District- Jehanabad

MINTU KUMAR Son of Ramsvrup Yadav @ Ram Swarup Yadav Resident
of Village - Chilori, P.S.- Makhdumpur, District - Jehanabad

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bindhayachal Singh, Adv.

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

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

6 05-07-2021 Learned counsel for the appellant undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the appellant and learned
Spl. P.P. for the State.

The appellant in the present case is seeking to set aside the order dated 03.10.2020 passed by learned Additional Sessions Judge-IV, Jehanabad in connection with Special POCSO Case No.77/2019 (arising out of Jehanabad Mahila P.S. Case No.03/2019) registered for the offences punishable under Sections 341, 342, 323, 376(D) of the Indian Penal Code and Section 3(1)(r)(w)(s), 3(2)(va) of the SC/ST (POA) Act, whereby and whereunder the prayer for regular bail of the



appellant has been rejected.

Learned counsel for the appellant submits that as per the prosecution story when the victim girl aged about 13 years had gone to meet call of nature towards western side of her house with one minor girl aged about 8 years, all the accused persons including the appellant caught hold of her, closed her mouth and took her away after lifting her on a motorcycle at abandoned place. It is alleged that all of them have committed rape on her and thereafter they left her near tubewell at 2.00 pm with a threat not to lodge a case otherwise she would be killed.

Learned counsel submits that the present FIR is lodged on mere hearsay. The victim girl was examined in the Sadar hospital where no sign of recent sexual assault was found on her. It is further stated that her statement under Section 164 Cr.P.C. was recorded and the undergarment of victim girl was seized by police which was sent to the F.S.L., Patna for examination. The FSL report shows presence of semen on the undergarment, however learned counsel submits that the same has not been matched with the DNA of the accused persons. This appellant is said to be in custody in connection with this case since 22.11.2019.

On the other hand, learned Spl. P.P. for the State has



opposed the prayer for bail of the appellant. It is submitted that it is a case of gang rape of the victim who is admittedly a minor girl. In paragraph '6' of the case diary she has supported her allegations and further the minor girl who was with victim girl has also supported the prosecution case.

Having regard to the facts and circumstances of the case, the seriousness of the offence alleged and the materials which have been placed before this Court, this Court is not inclined to release the appellant on bail. The appeal is, thus, dismissed.

Let the trial be expedited. All endeavours should be made to conclude the trial within one year after start of normal functioning of the court. If the trial remains unconcluded for no reason attributable to the appellant, he may renew his prayer for bail.

(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'.

