

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.690 of 2021**

Arising Out of PS. Case No.-35 Year-2020 Thana- KHIRHAR District- Madhubani

RAMESH KUMAR MAHTO @ RAMESH KUMAR Son of Jitan Mahto @
Dinesh Mahto Resident of Village - Khanuatol, P.S.- Benipatti, District -
Madhubani.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	M/s Gagan Deo Yadav Ravi Prakash, Advocates
For the Respondent/s	:	Dr. Ajit Kumar, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

3 23-03-2021 Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

The instant appeal has been preferred against the order dated 22.6.2020 passed by the learned 1st Additional Sessions Judge – cum – Special Judge, Madhubani whereby the prayer for regular bail of the appellant in connection with Khirhar P.S. Case no. 35/2020 registered under sections 376, 504, 506 and 34 of the Indian Penal Code, section 4 / 6 POCSO Act and sections 3(1)(r)(s)(w)(2) of the SC and ST (Prevention of Atrocities) Act, was rejected.

As per allegation in the F.I.R., it is stated by the informant that the appellant herein under the pretext of marriage established physical relations with her and, thereafter, refused to marry.



It is submitted by learned counsel for the appellant that the allegations as narrated in the F.I.R. are false and incorrect. Even from perusal of the statement of the informant under section 164 Cr.P.C. (Annexure 2) it would transpire that the physical relations have been established with the consent of both the parties. Further referring to the supplementary affidavit, it is submitted that the informant was examined by Medical Board which has opined the age of the informant as 19 – 20 years and hence she is a major. Appellant is in custody since 27.5.2020 and has no criminal antecedent.

The appeal is opposed by learned Spl.P.P. appearing for the State.

Having heard learned counsel for the parties and taking into consideration the nature of allegation, the statement under section 164 Cr.P.C. together with the opinion of the Medical Board wherein the age of informant has been estimated between 19 and 20 years, the Court is inclined to allow the appeal.

The appeal is allowed and the order dated 22.6.2020 passed by the learned learned 1st Additional Sessions Judge – cum – Special Judge, Madhubani is set aside.

The appellant is directed to be enlarged on bail in



connection with Khirhar P.S. Case no. 35/2020 on furnishing
bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two
sureties of the like amount each to the satisfaction of the learned
1st Additional Sessions Judge – cum – Special Judge,
Madhubani.

(Partha Sarthy, J)

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