

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.897 of 2021

Arising Out of PS. Case No.-258 Year-2020 Thana- GAURICHAK District- Patna

Pintu Kumar aged about 19 years, Male, S/o Dhanu Kewat R/o village- Naya Tola Fahempur, Lanka Kachhuara, P.S.- Gaurichak, District- Patna

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Paras Nath, Advocate

For the Respondent/s : Ms. Usha Kumari No1 Spl PP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 30-07-2021 In view of the sudden surge of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

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

Learned counsel for the appellant is expected to honour his undertaking given in the instant case for depositing the requisite court fee and to remove the defects as pointed out by office when called upon to do so by the office.

The appellant has preferred the present appeal under Section 14A(2) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity , *SC/ ST Act*) against the refusal of his prayer for regular bail vide order dated



06.11.2020 passed by learned Additional District and Sessions Judge-III- cum- Special Judge, SC/ST Act, Patna, in a case registered under Sections 376(D) of the Indian Penal Code and Sections 66(b),(c) (d) /67 of the I.T. Act and Sections 3(2)(v),(3) (2) (v-a)/ 3(i)w(i)/ 3(i) w(ii) of SC/ST Act in connection with SC/ST Special Case No. 362(A) of 2020 arising out of Gaurichak P. S. Case No. 258 of 2020.

The informant has taken a lift on the motorcycle. The person driving the motorcycle has taken her to an unknown place in a dilapidated house where, it is alleged, that he has committed rape upon her. 5-6 other persons have also been called. They too have committed rape and a video has been prepared and thereafter made viral.

The counsel for the appellant submits that having no criminal antecedents, he is a young person aged about 19 years. He has falsely been implicated in this case. The investigation has revealed that the lift was given by one Dinanath Kumar and co-accused Dinanath Kumar and Vikash Kumar are the two persons identified in the video clip during the course of investigation. Till date, there is no identification of the appellant and his implication is merely based on confessional statement of co-accused, having no evidentiary value. The appellant has also



not been put on Test Identification Parade though the victim, in her statement, recorded under Section 164 Cr. PC, also has stated about seeing at least six persons. Under such circumstance, appellant is in custody since 23.08.2020.

The learned Spl. PP for the State has opposed the prayer for bail. It is submitted that the investigation has revealed participation by at least six persons. The victim has also supported the allegations made in the FIR. During the investigation the appellant has been identified by the co-accused persons.

In my opinion, a case for grant of regular bail is made out. The impugned order dated 06.11.2020 passed in SC/ST Special Case No. 362(A) of 2020 arising out of Gaurichak P.S. Case No. 258 of 2020, requires interference by this Court, which is, accordingly set aside.

Considering the rival submissions, this appeal is allowed. The impugned order dated 06.11.2020 passed by Additional District and Sessions Judge-III-cum- Spl. Judge SC/ST Act Patna, in connection with SC/ST Special Case No. 362(A) of 2020 arising out of Gaurichak P.S. Case No. 258 of 2020, 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 Additional District and Sessions Judge-III- cum- Special Judge SC/ST Act, Patna, in connection with SC/ST Special Case No. 362(A) of 2020 arising out of Gaurichak P. S. Case No. 258 of 2020, subject to the following conditions:-

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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