

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.951 of 2022**

Arising Out of PS. Case No.-207 Year-2021 Thana- HUSSAINGANJ District- Siwan

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DIVESH KUMAR PRASAD Son of Jawahar Bhagat @ Jawahar Lal Bhagat
Resident of Vilage- Karmsahi, P.S.- Hasanpura (M.H. Nagar), District -
Siwan.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR Bihar
2. Lalmati Devi Wife of Hirdaya Lal Ram Resident of Vilage- Karmsahi, P.O.
Arnada, P.S.-M.H. Nagar, District - Siwan.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Anil Chandra
For the Respondent/s : Mr.Usha Kumari 1

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 28-07-2022

Heard learned counsel for the appellant and learned APP
for the State.

Let the defect (s), as pointed out by the office, be
removed within a period of four weeks from the date of resumption
of physical filing and physical removal of defect.

This is an appeal under Section 14(A)(2) of the
Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act,
1989 against the refusal of prayer for bail vide order dated
21.02.2022 passed by the learned 1st Additional Sessiions Judge-cum-
Special Judge, Siwan in connection with Hussainganj (M. H. Nagar)
P.S. Case No. 207 of 2021 registered for the alleged offences under
Sections 363, 366A, 504 and 34 of the Indian Penal Code and



Sections 3(i) (r), 3(2) (va) of the Scheduled Cast and Scheduled Tribes Act.

As per prosecution case, the appellant along with other co-accused persons kidnapped the minor daughter of the informant for the purpose of marriage with the appellant.

The learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. There is general and vague allegation against the appellant and other co-accused person. The kidnapped victim girl was not a minor and her age as assessed by the doctor was above 22 years. However, no evidence of sexual assault has been found on the body of the victim. Learned counsel further submits that the appellant did not take away the daughter of the informant and she left her house on her own. Thereafter, the victim refused to marry with the appellant and she came to the police station and recorded her statement to the police to this effect. A compromise has taken place between the sides of the informant and the appellant. Charge sheet has been submitted in this case and the appellant is in custody since 04.01.2022.

Learned counsel appearing on behalf of the respondent no. 2 admits that the matter has been compromised and further submits that the informant does not oppose the prayer for bail made by this appellant.

Having regard to the submission made hereinabove and considering the medical report of the victim girl which was stated to



be above 22 years of age and further considering the subsequent events and the submission of charge sheet in this case along with period of custody of the appellant, the appellant above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional District Judge-cum-Special Judge, Siwan in connection with Hussainganj (M. H. Nagar) P.S. Case No. 207 of 2021, subject to the following conditions :

- (i) One of the bailors will be a close relative of the appellant.
- (ii) The appellant will remain present on each and every date fixed by the court below.
- (iii) In case of absence for three consecutive dates or in violation of the terms of the bail, the bail bond of the appellant will be liable to be cancelled by the court concerned.

Accordingly, the impugned order is set aside and the appeal is allowed.

(Arun Kumar Jha, J)

Gautam/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	06.08.2022
Transmission Date	06.08.2022

