

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1329 of 2022

Arising Out of PS. Case No.-166 Year-2021 Thana- TISIAUTA District- Vaishali

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Anshu Kumar, Son of Adhin Thakur @ Adhin Kumar Thakur, Resident of
Village- Bijrauli, P.S- Tisiauta, Dist- Vaishali

... .. Appellant/s

Versus

1. The State of Bihar
2. Akali Devi, wife of Jageshwar Ram, R/o village- Sahpur, P.S.- Tisiauta,
District- Vaishali

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Nilesh Kumar, Advocate
For the Respondent/s	:	Mr. Usha Kumari 1, Spl. P.P.
For Respondent No.2	:	Mr. Ravish Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 13-09-2022 Learned counsel for the appellant is permitted to

remove the defect(s), as pointed out by the office, within a

period of four weeks from today.

2. Heard Mr. Ajay Kumar Thakur, learned counsel
appearing on behalf of the appellant, Mr. Ravish Mishra, learned
counsel for the respondent no. 2 as well as learned Spl. PP for
the State.

3. The present appeal under Section 14(A)(2) of the
Scheduled Castes/Scheduled Tribes, Prevention of Atrocities
Act, (hereinafter referred to as 'SC/ST Act') has been preferred
against the order dated 26.03.2022 passed by the learned Special
Judge, SC/ST Act, Vaishali at Hajipur in connection with



Tisiauta P.S. case no. 166 of 2021 registered for the offences punishable under Sections 366, 302, 120(B) of the Indian Penal Code and Sections 3(2)(va) of the SC/ST Act whereby the prayer for grant of regular bail of the appellant has been rejected.

4. As per the prosecution case, it is alleged that on 20.12.2021, at about 7.00 PM when the daughter of the informant (X), aged about 20 years, went for nature call, in the meantime, Anurag Kumar, Rakesh Chaudhary, Manoj Chaudhary, Anshu Kumar (appellant) along with 5-6 persons kidnapped her forcibly. On hulla of the victim, the informant along with her son and others reached there, whereupon the accused persons assaulted them and hurled abuses by taking the caste names and thereupon after threatened them on the point of pistol, they took away her daughter. On 26.12.2021, at 12.00, the dead body of the daughter of the informant was found in the river.

5. Learned counsel appearing on behalf of the appellant submits that from the F.I.R. it is evident that the informant, her son and other persons, including some relatives, were alleged to be eye witnesses to the alleged occurrence and admittedly the incidence of alleged kidnapping was taken place



on 20.12.2021, but surprisingly the F.I.R. has been instituted on 26.12.2021 at about 7.00 PM, after recovery of the dead body of the victim. Further the F.I.R. was received in the Court on 28.12.2021, which clearly shows the deliberation and afterthought. It is further submitted that during the investigation the police has taken the CAF of the mobile of the deceased showing her mobile number as 7493864659 and when the call details report of the aforesaid mobile was taken out, it was found that from the said mobile, there was a regular call on mobile no.8888096179 and it was found that both the holders of the mobile number have talked to each other for long duration. In course of investigation one another mobile bearing no. 9999096179 was also found from which there had been various calls and conversations with the mobile number of the victim. However, none of the mobile numbers has any concern with the petitioner nor there had been any conversation with the mobile number of the appellant. He next submits that the doctor has also conducted post-mortem, however, no internal or external injury on the body of the deceased was found and hence the viscera was sent for chemical examination for Forensic Science Laboratory report. It is also submitted that the entire allegation revolves around co-accused Anurag Kumar, who was allegedly



in love with the deceased and it is he, who forcibly taken away the daughter of the informant. He next submits that the appellant is a student of B.A. Part-I and pursuing his study in Samta College, Jandaha and his innocence also shown from the fact that he was arrested from his house on 28.12.2021 and thereafter he was taken into custody and produced in the Court on 30.12.2021, having fair antecedent.

6. On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that the respondent no.2 is a poor lady, having 4 children, and for maintaining them her husband used to work as a labourer in Jalandhar and she being an illiterate and was not aware about intricacies of law could not lodge the F.I.R. He further submits that the accused persons are influential persons, having political clout, have given constantly threatening and intimidation to the respondent no.2 due to which she became frightened, which was the reason for the delay in lodging the F.I.R. He next submits that the informant-respondent no.2 and her family was so poor, the victim was not in a position to own, carried and possess a mobile and as a matter of fact the accused persons had planned the crime to perfection and they in collusion with each other have taken fake Sim in the name of deceased girl. He also



submits that from perusal of KYC of the deceased, it is clear that no details of any documents have been mentioned nor any date of activation is there. He further submits that the appellant is found to be the one of the person, who forcefully kidnapped the daughter of the informant and moreover in the present case, the trial has already commenced and out of five witnesses, three have been examined and they have fully supported the prosecution case. He submits that only two more witnesses have to be examined, apart from the two formal witnesses, for the trial to be conducted in a fair manner, it is necessary that the appellant should be kept behind the bar.

7. Regard being had to the submissions made on behalf of the parties and considering the delay of six days in lodging of the F.I.R. that too in a case where a girl was forcibly kidnapped in presence of her mother, brother and other family members, the conduct of all of them seem to be not normal, inasmuch, as the entire allegations revolves around co-accused Anurag Kumar, who was allegedly in love with the deceased and forcibly taken away the daughter of the informant, apart from the appellant, having fair antecedent, is in custody since 30.12.2021, let the appellant, named above, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand)



with two sureties of the like amount each to the satisfaction of learned Special Judge, SC/ST Act, Vaishali at Hajipur in connection with Tisiauta P.S. case no. 166 of 2021, subject to the condition that one of the bailors will be the close relatives of the appellant with further conditions which are as follows:-

(i) The appellant will cooperate in conclusion of the trial.

(ii) He will remain physically present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

8. Accordingly, the impugned order dated 26.03.2022 is hereby set aside and the present appeal stands allowed.

(Harish Kumar, J)

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