

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1620 of 2022

Arising Out of PS. Case No.-29 Year-2021 Thana- MUZFFARPUR GRP CASE District-
Muzaffarpur

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Sudhir Mallik @ Sujit Kumar, Son of Late Nand Kishore Mallik @ Sanjay Mallik @ Harish Chandra Kuwar, Resident of Village- Imli Chatti Mal Godam Chowk, P.S.- Brahampura, Distt.- Muzaffarpur.

... .. Appellant/s

Versus

1. The State of Bihar
2. Alkhi Devi, Wife of Munilall Sada, Resident of village- Imlichatti Malgadan Chowk P.S.- Brahampura, Muzaffarpur At present Muz Railway Station beside platform no 8

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Mazharul Hassan, Advocate
For the Respondent/s	:	Mr. Usha Kumari 1, Spl. P.P.
For the Respondent No.2:	:	Mr. Pramod Kumar Prasad Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 22-09-2022 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.

Heard Mr. Mazharul Hassan, learned counsel appearing on behalf of the appellant, Mr. Pramod Kumar Prasad Singh, learned counsel for respondent no.2 and learned Spl. PP for the State.

At the outset, learned counsel for the State submits that the present appeal is not maintainable in view of the fact that the impugned order has been passed by the learned Special Judge, POCSO-I, Muzaffarpur. She further submits that the F.I.R. has been instituted against the appellant under Section



366(A) of the Indian Penal Code and Sections 4/8 of the POCSO Act, apart from other penal Sections of the SC/ST Act. She also drawn the attention of this Court towards the judgment rendered by the learned Coordinate Bench of this Court in Cr. Misc. No. 52792 of 2019 (Guddu Kumar Yadav Vs. The State of Bihar) wherein the Court has been pleased to held that “where an order granting or refusing bail to an accused being passed by the Special Court constituted under POCSO Act, in connection with a case involving offences under both the Acts, the same would not be appellable under Section 14-A of the SC/ST Act. In such circumstances, the application for bail in terms of Section 439 of the Cr.P.C. would alone be maintainable before the High Court”.

In view of the submissions made on behalf of learned counsel for the State, the present appeal finds to be not maintainable and as such, the same stands dismissed with liberty to file fresh Cr. Misc. application assailing the impugned order.

Accordingly, the present appeal stands disposed of.

(Harish Kumar, J)

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