

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4852 of 2021**

Arising Out of PS. Case No.-53 Year-2019 Thana- BAHERI District- Darbhanga

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Santi Lal Mandal @ Sant Lal Mandal @ Santosh Kumar Mandal @ Santosh Mandal S/o Late Ram Baran Mandal R/o village- Bara Inay, P.S.- Baheri, District- Darbhanga

... .. Appellant/s

Versus

1. The State of Bihar
2. Kumkum Kumari Suresh Paswan R/o Village-Naodega, P.S.-Baheri, District-Darbhangha

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ugranath Mallik, Advocate.
For the Respondent/s : Mr. Sadanand Paswan, Spl.PP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 21-07-2022 Learned counsel for the Appellant is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Ugranath Mallik, learned counsel for the Appellant as well as learned Special Public Prosecutor for the State.

This is an appeal under Section 14 A (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for bail vide order dated 30.09.2021 passed by the learned Special Judge (POCSO Act), Darbhanga in connection with Baheri P. S. Case No. 53 of 2019



giving rise to G. R. Case No. 13 A of 2019 registered for the offences punishable under Sections 341, 342, 323, 376 (D) and Section 504 read with 34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences, Act and Sections 3(i)(r)/3 (20 (va) of the SC/ST (Prevention of Atrocities) Act.

As per the prosecution case, it is alleged that on 22.03.2019, when the informant went to attend nature call, in the meantime, the petitioner and co-accused Ajeet Kumar Mandal took her away and brought in a hut and where this appellant along with co-accused Ajeet Kumar Mandal committed rape upon her.

Learned counsel appearing on behalf of the Appellant submitted that earlier the prayer for bail application was rejected by this Hon'ble Court in Criminal Appeal (SJ) No. 2918 of 2019 order dated 20.08.2019. It is further submitted that no such occurrence as alleged ever took place, rather he has been falsely implicated in this case. It is next submitted that there is lots of contradiction between the statement made by the victim under Section 161 Cr.P.C. and the statement under Section 164 Cr.P.C.. It is also submitted that in her statement under Section 161 Cr.P.C., she has stated that she was ravished



by Sant Lal Mandal while in another statement given under Section 164 Cr.P.C., she has stated that she was ravished by both the accused persons Ajeet Kumar Mandal and this appellant. It is further submitted that the victim and her parents, later on, realising the actual state of affairs, denied the complicity of the appellant in the present occurrence. It is also submitted that the co-accused person namely Ajeet Kumar Mandal was put on trial and he was later on, acquitted from all the charges in POCSO G.R. No. 13 of 2019 vide order dated 20.04.2020. A copy of which has been brought on record by way of annexure 4 to the application. It is next submitted that the victim was examined by the Medical Board and no external injuries have been found over any part of the body. It is lastly submitted that this appellant is in custody since 08.10.2020.

On the other hand, learned Special Public Prosecutor for the State opposes the bail application.

Having considered the submissions made on behalf of the parties and taking into account the contradiction of the statement of the victim as also the fact that other co-accused person against whom there was similar allegation has been acquitted from the learned trial court and this appellant is in custody since 08.10.2021, let the appellant, above named, 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 (POCSO Act),
Darbhanga in connection with Baheri P. S. Case No. 53 of 2019
giving rise to G. R. Case No. 13 A of 2019.

In view of the aforesaid fact, the impugned order
dated 30.09.2021 is hereby set aside and the present appeal is
allowed.

(Harish Kumar, J)

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