

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4874 of 2021

Arising Out of PS. Case No.-809 Year-2019 Thana- RAMKRISHNANAGAR District- Patna

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PUJA KUMARI @ NEELAM KUMARI Wife of Pradeep Sahni @ Amit Sahni @ Gorakh Resident of Gosaighat Lane, Alamganj, Bangalitola, P.S.- Alamganj, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Karina Kumari D/O- Nagendra Rajak Resident of Mohalla- Rithigali Gur Ki Mandi, Birju Mahto Ke Makan Mein, P.S.- Alamganj, District- Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Harish Kumar, Advocate
For the Respondent/s : Ms. Usha Kumari 1, SPP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

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| 4 | 28-07-2022 | <ol style="list-style-type: none">1. Heard learned counsel for the appellant and learned Special P.P. for the State, on point of admission and on merit also.2. The appellant has preferred the present appeal under Section 14A(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 22.10.2021 passed by the learned Additional Sessions Judge-VI-cum-Special Judge POCSO Act, Patna in connection with Ram |
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Krishna Nagar P.S. Case No. 809 of 2019 registered under Sections 372, 376, 354 and 34 of Indian Penal Code, Sections 4, 10 and 16 of the POCSO Act, Sections 3(i)(v) (w) and 3(2)(v) of SC/ST Act and Section 5 of the Immoral Traffic Act.

3. Present appeal is well within limitation as prescribed under Section 14A(3) of the Act.

4. Notice has been issued to Respondent no.2, and despite of repeated efforts, same was not served as informant/victim left given address, where she was tenant.

5. The appellant is named in F.I.R. and is in custody since 26.04.2020.

6. The allegation against the appellant is to be involved in selling of minor girl for the purpose of prostitution.

7. Learned counsel for the appellant submitted that appellant is falsely implicated in the present case due to differences arises out of employment related issues of minor girl who were engaged for domestic help. It has also been submitted that the victim girl was not medically examined during investigation, which creates a further



doubt as regard to entire allegation. It is also submitted that there is a major contradiction between contents of FIR and statement of victim recorded under Section 164 of Cr.P.C.. It has further been submitted that there is nothing to suggest as per FIR that the act of appellant, is within the meaning of atrocities of the Act. It is also submitted that victim girls went her own to the house of petitioner, who is a lady of clean antecedent, and moreover, there is nothing to attract the activities of selling of minor girls, as per statement of both victim girls as recorded under Section 164 of the Cr.P.C. While concluding the argument, it has been submitted that investigation has been completed, for which, charge-sheet has already been submitted in this case, as such, there is no chance of tampering with the evidence.

8. Learned counsel for the appellant submitted that if insult is not caused to complainant/informant on the basis of caste, no case is made out under the Act, as it was held in *State of Madhya Pradesh Vs. Parasram @ Purushottam, as reported in 2015 (153) AIC 276.*

9. Learned Special P.P. for the State, while opposing the prayer for bail, submitted that victim girl specifically



stated against the appellant to push into racket of prostitution.

10. In view of the submissions, as made above, as allegations and contents of the statement of victim girls under Section 164 of Cr.P.C. negate selling of minor girls on its face, where appellant is a lady of clean antecedent, let the appellant, above named, is directed to be released on bail in connection with Ram Krishna Nagar P.S. Case No. 809 of 2019 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-VI-cum-Special Judge, POCSO Act, Patna, subject to the following conditions:

“(i) Appellant shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the appellant, duly supported by the documents.

(ii) That one of the bailors shall be Vijay Sahani, who is the father-in-law of the appellant and deponent of the present appeal.”



11. Accordingly, impugned order dated 22.10.2021 is set aside.

12. Hence, appeal stands allowed.

(Chandra Shekhar Jha, J)

R.S.Sen/-

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