

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2014 of 2023**

Arising Out of PS. Case No.-291 Year-2022 Thana- SAHPUR District- Bhojpur

Rakesh Kahar, Son of Birbal Kahar, R/o Village-Itaura PS- Charpokhari, Dist- Bhojpur.

... .. Appellant

Versus

1. The State of Bihar
2. Jai Ram Ram, Son of Late Ram Payare Ram, R/V- Bariswan, PS- Sahpur, Dist- Bhojpur.

... .. Respondents

Appearance :

For the Appellant/s : Mr. Manoj Kumar, Advocate
For the Respondent/s : Mrs. Usha Kumari 1, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 14-07-2023 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

2. The appellant has preferred the present appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Act') for setting aside the impugned order dated 29.03.2023 passed by the learned 6th Additional Sessions Judge-cum-Special Court, Bhojpur at Ara in connection with POCSO Case No.65 of 2022 arising out of Sahpur P.S. Case No.291 of 2022 registered for the offences punishable under Sections 363 of the Indian Penal Code, Section 8 of the Protection of Children from Sexual Offences Act and Section 3(1)(r)(s) of the Act.



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

4. Notice was issued vide order dated 23.06.2023 by this Court regarding present proceedings in terms of Section 15-A(2) of the Act to the informant.

5. It is submitted by learned Special Public Prosecutor that information already given to informant in terms of aforesaid order but, he failed to join the present proceeding.

6. Accused/appellant is named in the FIR and is in custody since 09.02.2023.

7. Allegation against the appellant is to kidnap the minor daughter of informant aged about 12 years for the purpose of illicit intercourse/marriage.

8. It is submitted by learned counsel that appellant has been falsely implicated with present case as love affairs of appellant with daughter of informant was not accepted by her parents including informant. It is submitted that after recovery, the statement of victim girl was recorded under Section 164 of the CrPC where she specifically stated that she out of her own sweet will with appellant solemnized her marriage and thus by negated the allegation of kidnapping and sexual assault. It is submitted that nothing surfaced during the course of



investigation, which may suggest that act of appellant can be said an atrocities within the meaning of Act, as to cause present occurrence. While concluding argument, it is submitted that appellant is a man of clean antecedent and moreover investigation of this case has been completed for which, charge-sheet has been submitted and, as such, there is no chance of tampering with the evidence.

9. 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]***.

10. Learned Special Public Prosecutor while opposing the prayer for bail of the appellant submitted that the allegation of kidnapping is specific against this appellant.

11. In view of above-mentioned facts and circumstances, and by taking note of statement of victim as recorded under Section 164 of the CrPC, where she completely negate allegations of kidnapping and sexual assault against this appellant, coupled with the fact that charge-sheet has already submitted, where appellant is in custody since 09.02.2023, accordingly, the appellant, above-named, is directed to be



released on bail furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 6th Additional Sessions Judge-cum-Special Court, Bhojpur at Ara in connection with POCSO Case No.65 of 2022 arising out of Sahpur P.S. Case No.291 of 2022, subject to the conditions as laid down under Section 437(3) of the CrPC.

12. Accordingly, the impugned order dated 29.03.2023 is set aside.

13. The appeal stands allowed.

(Chandra Shekhar Jha, J.)

Sanjeet/-

U		T	
---	--	---	--

