

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2944 of 2022

Arising Out of PS. Case No.-401 Year-2022 Thana- MADHEPURA District- Madhepura

Md. Murshid Son of Md. Jumman Resident of Village - Bharrahi, P.S.-
Madhepura, District - Madhepura.

... .. Appellant/s

Versus

1. The State of Bihar
2. Anisha Kumari Daughter of Ashok Paswan Minor daughter of Ashok Paswan under legal guardianship of her father namely Ashok Paswan, Resident of Village - Bharrahi Bazar, Ward No.- 04, P.S.- Bharrahi O.P., District - Madhepura.

... .. Respondent/s

Appearance:

For the Appellant/s	:	Mr. Uday Chand Prasad, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 15-02-2023 Learned counsel Mr. Uday Chand Prasad appearing for the appellant and learned APP Mr. Sadanand Paswan appearing for the State are present and they are heard.

The instant appeal has been preferred against the order dated 29.07.2022 passed by the Court of learned Additional Sessions Judge-VI-cum-Special Judge, POCSO, Madhepura in POCSO Case No. 16 of 2022 arising out of Madhepura P.S. Case No. 401 of 2022 which has been registered under Sections 341, 323, 354B, 504 and 506 of the Indian Penal Code, and Section 8 of POCSO Act and Section 3(i),(r),(w), 3(2), (va) of SC/ST Act, whereby the prayer for bail made by the appellant has been rejected.

The main submissions advanced by learned counsel for the appellant are that the FIR of the instant matter was lodged after the delay of three days and at the time of filing this appeal the appellant had no criminal antecedent but subsequently one case under Section 498(A) of IPC was lodged by the wife of the appellant and accordingly there are now two criminal cases against the appellant, in fact the appellant is the neighbour of the informant and informant's father borrowed Rs. 10,000/- (Ten thousand) from the appellant and when he demanded the said money then the instant matter was falsely prepared. Further submission is that the appellant has been languishing in jail since 28.04.2022 and there is no medical evidence to support the allegation of the FIR.

Learned counsel for respondent no. 2 and learned APP for the State have vehemently opposed the prayer of the appellant and submitted that there is a serious allegation against the appellant in the FIR and the learned Trial Court rightly rejected the bail prayer of the appellant and on account of the behaviour of the appellant it has become very difficult for the victim to go outside of her house and therefore the appellant does not deserve the privilege of bail and his appeal is liable to be rejected.

Heard both the sides and perused the order impugned and the case diary of Madhepura P.S. Case No. 401 of 2022. The appellant is stated to be twenty years old as per the FIR and he has been languishing in jail since 28.04.2022 and there is only one criminal antecedent against him which was lodged by his wife as per above submission. In view of these facts, the order of learned Trial Court rejecting the bail prayer of the appellant does not appear to be proper and fit, so it stands set aside and the appeal stands allowed and the appellant named above is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount to the satisfaction of the learned Additional Sessions Judge-VI-cum-Special Judge, POCSO, Madhepura in connection with POCSO Case No. 16 of 2022, arising out of Madhepura P.S. Case No. 401 of 2022.

(Shailendra Singh, J)

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