

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3136 of 2024

Arising Out of PS. Case No.-244 Year-2023 Thana- MURLIGANJ District- Madhepura

1. Anju Devi Wife of Bijendra Mandal Resident of Village - Jairampur, Murliganj, Ward No.10, P.S. - Murliganj, District - Madhepura
2. Bijendra Mandal Son Of Late Yugal Mandal @ Late Yugal @ Late Ugal Mandal Resident of Village - Jairampur, Murliganj, Ward No.10, P.S. - Murliganj, District - Madhepura

... .. Appellant/s

Versus

1. The State of Bihar
2. Santosh Kumar Son of Bhupendra Ram Resident of Village - Nagar Panchayat, Murliganj, Ward No.10, P.S. - Murliganj, District - Madhepura

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Wasi Ahmad Khan, Adv.
For the Respondent/s : Ms.Usha Kumari 1, APP

CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH MISHRA
ORAL ORDER

3 20-09-2024 Heard learned counsel for the appellants,
learned Special Public Prosecutor for the State.

2. The instant appeal has been filed by the appellants against the order dated 06.06.2024 passed by learned 1st Additional District and Sessions Judge-cum- Special Judge, SC/ST Act (Prevention of Atrocities) Act, Madhepura whereby the prayer for anticipatory bail of the appellants in connection with Murliganj P.S. Case No. 244 of 2023 under Sections 363, 366/34 of the Indian Penal Code and Section 3(i)(r)(s)(w) of the SC/ST



Act was rejected.

3. The prosecution case, in short, is that on the alleged date and time, the sister of the Informant had gone to purchase soap but, she did not return. On search, it was found that the son of the appellant no.2 kidnapped the Informant's sister.

4. Learned counsel for the appellants submits that the appellants are innocent and have falsely been implicated in the present case. He submits that the police after investigation submitted final form being Final Report No. 335 of 2023 dated 10.10.2023 exonerating the appellants and not sent up for trial but, in spite of that, the learned court below took cognizance of the offence against the appellants under Section 363, 366/34 of the Indian Penal Code and Section 3(i)(r)(s)(w) of the SC/ST (Prevention of Atrocities) Act. There is a delay of twelve days in lodging the F.I.R. without any plausible explanation for the same. It is further submitted that the son of the appellants Ajay Kumar Mandal and the Informant's sister were in



love with each other and, thus, the allegation of kidnapping is out and out false and fabricated. The victim girl has denied for medical examination. The matter has also been amicably settled between the parties outside the court. Charge-sheet has been submitted in this case. Learned counsel for the appellants further submits that the appellants have not taken the caste name of the informant in public view. Hence, no offence under the provisions of SC/ST Act is made out against him. The appellants have no intention to disgrace the image of the informant in public view. The appellants have no criminal antecedent. Similar co-accused has been granted bail by a Coordinate Bench of this Court vide order dated 02.05.2024 passed in Cr. Appeal (S.J.) No. 230 of 2024.

5. Learned Special P.P. for the State has vehemently opposed the prayer for grant of anticipatory bail to the appellant.

6. Considering the aforesaid facts and circumstances of the case and considering the fact that the final form has been submitted against the



appellants, this Court is inclined to allow this appeal. Accordingly, the appeal is allowed and order dated 06.06.2024 passed by learned 1st Additional District and Sessions Judge-cum- Special Judge, SC/ST Act (Prevention of Atrocities) Act, Madhepura is hereby set aside.

7. Let the appellants, above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Murliganj P.S. Case No. 244 of 2023, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Rudra Prakash Mishra, J)

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