

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5182 of 2023

Arising Out of PS. Case No.-194 Year-2023 Thana- SAKRI District- Madhubani

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SANTOSH KUMAR SAH @ SANTOSH KUMAR SAHU SON OF LATE
CHIRANJEEV SAH @ LAXMAN SAH RESIDENT OF VILLAGE -
BHAWANIPUR, P.S. - SAKRI, DISTRICT - MADHUBANI

... .. Appellant/s

Versus

1. THE STATE OF BIHAR BIHAR
2. KISHORI DAS SON OF LATE MAHAGU DAS RESIDENT OF
VILLAGE - BHAWANIPUR, WARD NO.07, P.S. - SAKARI, DISTRICT -
MUZAFFARPUR

... .. Respondent/s

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Appearance :

For the Appellant/s : Ms.Vaishnavi Singh, Adv.
For the Respondent/s : Ms.Usha Kumari 1, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 31-01-2024 Heard the parties.

2. The present appeal has been filed against the order dated 16.10.2023 passed by learned Additional Sessions Judge-I-cum-Special Judge Madhubani whereby the prayer for bail of the appellant in connection with G.R. Case No. 147 of 2023 arising out of Sakri P.S. Case No. 194 of 2023 for the offence punishable under Section 366/34 of the Indian Penal Code and 3(1)(r)(s), 3(2)(va) of the Scheduled Caste / Scheduled Tribe (Prevention of Atrocities) Act was rejected.

3. As per prosecution case, informant's younger daughter is said to have been kidnapped by co-accused Satnam Kumar with an intention to marry her. It is alleged that



informant alongwith others are said to have been abused by the parents of the said co-accused at his home.

4. Learned counsel for the appellant submits that from the perusal of F.I.R, it is clear that there is no specific allegation of kidnapping against the present appellant rather the same has been committed by co-accused Satnam Kumar. Learned counsel for the appellant further submits that the specific allegation of kidnapping has also not been attributed against the petitioner in the statement of victim recorded under Section 164 of Cr.P.C. He further submits that the alleged occurrence has taken place in the house of the appellant and not in public view and hence, no offence has been made out under the provisions of SC/ST Act against the present appellant. Appellant is in custody since 16.10.2023 and bears no criminal antecedent. Charge-sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

5. Learned A.P.P. for the State vehemently opposed the prayer of bail of the appellant.

6. Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, period of custody, keeping in view clean antecedent of the appellant, charge-sheet has been submitted in this case and there



is no likelihood of tampering with the prosecution evidence, argument advanced on behalf of both sides and also taking into consideration the material available on record, the Court is inclined to allow the instant appeal. The appeal is allowed and the order dated 16.10.2023 passed by learned Additional Sessions Judge-I-cum-Special Judge Madhubani in connection with G.R. Case No. 147 of 2023 arising out of Sakri P.S. Case No. 194 of 2023 is set aside.

7. The appellant is directed to be enlarged on bail in connection with G.R. Case No. 147 of 2023 arising out of Sakri P.S. Case No. 194 of 2023 on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned trial court, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in the instant appeal.

(ii) Appellant will co-operate in trial and will remain present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial Court itself.

(iii) If the appellant tampers with the evidence or the



witnesses, in that case, the prosecution will be at liberty to move
for cancellation of bail.

(Alok Kumar Pandey, J)

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