

(2021) 03 PAT CK 0095

In the Patna High Court

Case No : Criminal Appeal (Sj) No 505 Of 2021

Kundan Kumar @ Raju @ Kundan Yadav @ Raju Kumar

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 09-03-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(i)(xi), 14A
Indian Penal Code, 1860 — Section 34, 323, 341, 354, 354A, 379, 504
Protection Of Children From Sexual Offences Act, 2012 — Section 8
Code Of Criminal Procedure, 1973 — Section 164

Citation : (2021) 03 PAT CK 0095

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Shailendra Kumar Singh

Final Decision : Allowed

Judgement

1 Heard learned counsel for the appellant and the learned Special PP for the State.

2 The appellant has preferred the present Appeal under Section 14A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for brevity, SC/ST Act) against the refusal of his prayer for regular bail vide order dated 21.10.2020 passed by Additional Sessions Judge VI -cum- Special Judge, Protection of Children from Sexual Offences (for brevity, POCSO) Act, Madhepura in a case registered under Sections 341, 323, 354, 354A, 504, 379/34 of Indian Penal Code, Section 8 of POCSO Act and Sections 3 (i)(xi) of SC/ST Act in connection with POCSO Act Case No 5 of 2020 arising out of Mahila Police Station (for brevity, PS) Case No 8 of 2020 dated 06.02.2020.

3 Co-accused Manish Yadav @ Sahil Yadav, along with one unknown person, has pushed the informant's daughter on the ground with bad intention while she was on way to coaching. Later, it is stated that brother of the victim has protested

and has been beaten by the said co-accused Manish Yadav @ Sahil Yadav, appellant and at least three other persons.

4 It is submitted by the appellant's counsel that the appellant's name has been dragged in the latter portion of the First Information Report (for brevity, FIR) on extraneous considerations. There is no allegation against the appellant of in any way assaulting or harassing the victim. The person, against whom there is specific allegation of harassing the victim, namely, Manish Yadav @ Sahil Yadav, has been allowed bail by the Special Court (Annexure 3). The FIR has been lodged one week after the occurrence and even, in her statement under Section 164 of Criminal Procedure Code, the victim has specifically stated about Manish Yadav @ Sahil Yadav. Against the appellant, there is general and omnibus allegation and he has no criminal antecedent.

5 In my opinion, in view of nature of accusation in the FIR, a case for grant of regular bail is made out. The impugned order dated 21.10.2020 requires interference by this Court, which is, accordingly, set aside.

6 Learned Special PP for the State has opposed the prayer for bail.

7 Considering the rival submissions, this appeal is allowed. The impugned order dated 21.10.2020 passed by Additional Sessions Judge VI -cum- Special Judge, POCSO Act, Madhepura in connection with POCSO Act Case No 5 of 2020 arising out of Mahila PS Case No 8 of 2020 is set aside.

8 Let the appellant above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge VI -cum- Special Judge, POCSO Act, Madhepura in POCSO Act Case No 5 of 2020 arising out of Mahila PS Case No 8 of 2020 subject to the following conditions:

(1) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(2) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled.