

Arising Out of PS. Case No.-526 Year-2017 Thana- FORBESGANJ District- Araria

... Appellant/s

Versus

... .. Respondent/s

For the Appellant/s : Mr.Dharmendra Kumar
For the Respondent/s : Mr.Sri Sadanand Paswan

ORAL ORDER

6 26-03-2019 Heard learned counsel for the parties.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 against the refusal of prayer for bail by order dated **05.11.2018** passed by learned **1st Additional Sessions-cum-Special Judge, Araria** in connection with **Special Case No. 226 of 2017 arising out of Forbesganj P.S. Case No. 526 of 2017** registered under Sections 363, 365, 366 (A) and 34 of the IPC and Section 3(2) (v) of SC/ST (Prevention of Atrocities) Act and after investigation charge sheet has been submitted under Section 363, 365, 366 (A), 376, 504, 506 and 34 of the IPC and also Section 3(2) (v) of the SC/ST Act.



Informant is the mother of victim who in her written complaint has stated that on 10.07.2017 at about 11:00 P.M. while she was returning with her family, petitioner along with his other family members took away her daughter Kajal Kumari on motorcycle and fled away.

It has been submitted on behalf of the appellant that he is innocent and has been falsely implicated in this case. The victim girl was recovered on 13.07.2017 and she was medically examined, however, no sign of any sexual assault, intercourse or rape has been found on the person of victim. It has been submitted that police arrested both of them when they were together standing on the road. The girl is major and according to medical opinion she is aged between 18 to 20 years and for similar allegation informant had earlier also instituted the case against appellant. Although in her statement under Section 164 the victim has alleged committing rape against appellant but same is not supported by the medical evidence. He is in custody since 12.07.2017 and has only one criminal antecedent in which also informant is the same.

Considering the aforesaid facts and circumstances of the case, let the appellant named above be released on bail upon furnishing bail bond of Rs. 20,000/- with two sureties of the like



amount each to the satisfaction of learned court below where the case is pending in connection with the aforesaid case, with following conditions:-

- (1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.
- (2) Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the court below.
- (3) If the Appellant tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the Appellant.

Accordingly, the impugned order is set aside and this appeal stands allowed.

(S. Kumar, J)

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