

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1441 of 2020**

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

MD. SHAMIM @ AMUA DRIVER Son of Late Khaleel Resident of Village -
Dallu Tola, Ward No. -19, P.S. - Forbesganj, District - Araria.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Kumar Ravish, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER**

2 09-10-2020 Heard Mr. Kumar Ravish, learned counsel for the

appellant and Mr. Sadanand Paswan, learned Special Public

Prosecutor appearing for the State through video conferencing.

This appeal has been preferred on behalf of the
appellant for setting aside the order dated 18.03.2020 passed by
the learned 1st Additional Sessions-cum-Special Judge, Araria,
whereby the prayer for regular bail of the appellant, in
connection with Spl. (SC/ST) Case No. 226 of 2017 arising out
of Forbesganj P.S. Case No. 526 of 2017 registered for the
offences punishable under Sections 363, 365, 366-A of the
Indian Penal Code and Section 3(2) (v) of the Scheduled Castes
and Scheduled Tribes (Prevention of Atrocities) Act, has been
rejected.

As per the prosecution story lodged by mother of the



victim that on 10.07.2017 at about 11:00 p.m. when the daughter of the informant was returning with her family members, the co-accused persons abducted the daughter of the informant, namely, Kajal Kumari, and fled away on a Motorcycle.

Learned counsel for the appellant submits that the appellant has not committed any offence in the manner alleged and his name has transpired on the basis of the statement made by the victim girl recorded under Section 164 Cr. P.C., copy of which, has been enclosed as Annexure-P/6. Learned counsel for the appellant further submits that no overt act has been alleged against the appellant and as per the statement of the victim girl recorded under Section 164 Cr. P.C., the allegation of committing rape upon the victim girl is against co-accused Md. Kadir who has been granted regular bail by a co-ordinate Bench of this Court vide order dated 26.03.2019 passed in Cr. Appeal (SJ) No. 4672 of 2018. Learned counsel also submits that other similarly situated co-accused persons have been granted regular and anticipatory bail by a co-ordinate Bench of this Court vide Annexure-P/3 series.

Having heard learned counsel for the parties and taking into consideration the materials available on record and also the fact that similarly situated co-accused persons have



been granted bail by co-ordinate Benches of this Court, this appeal is allowed and the impugned order dated 18.03.2020 passed by the learned 1st Additional Sessions-cum-Special Judge, Araria, in connection with Spl. (SC/ST) Case No. 226 of 2017 arising out of Forbesganj P.S. Case No. 526 of 2017, is hereby set aside.

Accordingly, let the appellant, above named, be released on regular bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions-cum-Special Judge, Araria, in connection with Spl. (SC/ST) Case No. 226 of 2017 arising out of Forbesganj P.S. Case No. 526 of 2017 on the following conditions:-

(i) that the bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(ii) that the appellant will be well represented on each date in the trial and if he fails to do so on two consecutive dates his bail bonds will be liable to be cancelled.

(iii) that 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.



It is made clear that at the time of furnishing bails bonds all the parties shall follow the guidelines regarding lockdown and social distancing.

(Anil Kumar Sinha, J)

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