

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3220 of 2019**

Arising Out of PS. Case No.-65 Year-2019 Thana- SC/ST District- Araria

RAJESH KUMAR YADAV Son of Arun Yadav Resident of Village- Dhantola
kankhudia ward No.07, Police Station- Palasi, District- Araria.

... .. Appellant/s

Versus

1. THE STATE OF BIHAR
2. Priti Devi Shyam Lal Manjhi R/o village- Dhantola, ward no -8 , P.S.-Palasi

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Mukesh Kumar Rana
For the Respondent/s : Mr.Sadanand Paswan

**CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER**

5 01-06-2020 The matter has been taken up through virtual Court proceeding.

Heard learned counsel for the appellant. However, none appears on behalf of the informant.

The present appeal has been preferred on behalf of the appellant being husband of the informant for setting aside the order dated 28.6.2019 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in Special (SC/ST) Case No. 105 of 2019 arising out of Araria SC/ST P.S. Case No. 65 of 2019 registered for the offences punishable under Sections 341,323,379,498A,504 and 506/34 of the IPC, Sections 3 and 4 of Dowry Prohibition Act and Sections 3(i)(r) of The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989,



whereby the appellant's prayer for bail in the aforementioned case has been rejected. The consequential prayer is for grant of bail.

It appears that that a Co-ordinate Bench of this Court, vide order dated 7.8.2019 granted provisional bail to the appellant and issued notice to O.P. No. 2. Subsequently, vide order dated 19.9.2019, on the request of both the parties, the matter was referred to Patna High Court Mediation Centre for mediation of the issue and thereafter, on the request of Mediator, vide order dated 3.2.2020, the period of mediation was extended for six weeks but it is submitted by learned counsel for the appellant that due to lock down, the mediation could not be held.

The prosecution case, as per the written report of one Priti Devi submitted to the SHO, SC/ST Police Station, Araria, is to the effect that the informant performed love marriage with the petitioner in a temple on 2.1.2019 but subsequently, the informant was being abused by calling the caste name and attempt was made to abort her pregnancy by administering medicine by the petitioner and other co-accused persons.

It is submitted by learned counsel for the appellant that the appellant neither tortured the informant nor administered medicine for terminating her pregnancy. There is no medical



report to that effect to corroborate the accusation and the appellant is ready to keep the informant with full dignity and honour, however, no statement to that effect has been made in the memo of appeal. It is further submitted that considering these facts, the appellant was granted provisional bail by a Co-ordinate Bench of this Court.

Keeping in view the exceptional circumstances created due to present pandemic Covid-19, it is not possible to conduct mediation. However, there is nothing on record to suggest that the appellant has misused the privilege of provisional bail granted about nine months ago. Learned counsel for the appellant further submits that the informant has gone mentally abraded and she is now not willing to stay with the appellant.

In the circumstances, the order dated 28.6.2019 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Araria in Special (SC/ST) Case No. 105 of 2019 arising out of Araria SC/ST P.S. Case No. 65 of 2019 is set aside and the provisional bail granted to the appellant vide order dated 7.8.2019 is hereby confirmed.

However, the present order will not preclude the informant to prefer an application for getting the issue resolved through mediation on resumption of physical Court proceedings by the learned Court below. If such application is filed, it will be imperative on the part of the appellant to appear and participate in the mediation proceeding. Non-participation or any default on the



part of the appellant will give liberty to the learned Court below
to cancel the bail bond of the appellant.

This appeal is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

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