

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2786 of 2022

Arising Out of PS. Case No.-5 Year-2022 Thana- SC/ST District- Araria

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Md. Shahdab @ Chunnu @ Md. Chunnu S/o Shakir @ Md. Mahmood R/o
village- Dhatta Tola Ward No. 06, P.S.- Forbesganj, District- Araria

... .. Appellant/s

Versus

1. The State of Bihar
2. Kavita Devi W/o Dilip Das R/o village- Training School Chowk Ward No.
21, P.S.- Forbesganj, District- Araria

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukesh Kumar Rana, Adv.
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 07-12-2022

Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
Spl.P.P. for the State.

The present appeal has been preferred under Section
14(A) (2) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989 against the refusal of prayer
for bail vide order dated 28.07.2022 for the alleged offence
under Sections 341, 323, 363, 504/34 of the I.P.C. read with
Section 3(1)(r)(va) of the Scheduled Castes and Scheduled
Tribes (Prevention of Atrocities) Act, 1989.

As per the prosecution case, the allegation of kidnapping
of the daughter of the informant is there in the F.I.R. by the
appellant and his brother on the fear of knife. It has been further
alleged that informant visited subsequently to the father of the
accused persons, who alleged to be abducted his daughter where

victim's father was abused by caste name and threatened to kill, subsequently the present case has been filed.

Learned counsel for the appellant submits that appellant is innocent and has committed no offence. As none of the accused persons who were alleged to be abducted, had used any abusive language to the informant which is apparent from the F.I.R. Learned counsel further submits that from the order of Special Court, it transpires that upon recovery, the victim has stated under Section 164 of Cr.P.C., that she herself went with the appellant and they both solemnized marriage. Learned counsel also submits that Annexure-2 is the medical report in which police after examination before the doctor ascertained that the age of the victim is between 18 to 20 years.

Learned counsel for the informant vehemently opposes the prayer for bail and submits that the alleged victim is minor as per her certificates and therefore her consent is of no legal value.

Learned Spl. P.P. for the State opposes the prayer for bail and submits that upon recovery she has narrated in her statement under Section 164 of Cr.P.C. and categorically stated that she was not kidnapped rather with consent she went with the appellant.

In the present facts and circumstances of the case and the submissions made above, let the appellant above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge, Araria in connection with Araria (SC/ST) P.S. Case No. 05 of 2022, subject to the conditions as laid down under Section 437(3) of Cr.P.C.

Accordingly, the impugned order dated 28.07.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Araria in connection with Araria (SC/ST) P.S. Case No. 05 of 2022 lodged under Sections 341, 323, 363, 504/34 of the I.P.C. read with Section 3(1)(r)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is set aside.

With this observation, the present appeal stands allowed.

(Dr. Anshuman, J)

prakashmani/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	