

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2856 of 2022

Arising Out of PS. Case No.-15 Year-2022 Thana- MAHILA P.S. District- Kishanganj

HOLA DAS @ BAPPA DAS SON OF BHEL SU DAS R/O VILLAGE-PATHAR TOLI KAMARSHAL, P.S.- CHAKULIA, DISTRICT- UTTAR DINAJPUR

... .. Appellant/s

Versus

1. The State of Bihar
2. MALTI KUMARI D/O OF DINESH RISHIDEV R/O VILLAGE-HASANPUR, WARD NO.-33, P.S.- KISHANGANJ, DISTRICT-KISHANGANJ

... .. Respondent/s

Appearance :

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

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 21-06-2023 Heard learned counsel for the appellant and learned Spl. P.P. for the State.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for **anticipatory bail** vide order dated 14.07.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Kishanganj in connection with Kishanganj Mahila P.S. Case No. 15 of 2022 registered for the offences punishable under Sections 341, 376, 504, 506 of the Indian Penal Code as well as Section 4 of POCSO Act and Section 3(1)(r)(s)(w1)/3(2)(va) of the SC/ST



Act.

Learned counsel for the appellant submits that the appellant is a person with clean antecedent and by order dated 12.10.2022 notices were issued on the O.P. No. 2. it is next submitted that notices were filed in time. From perusal of the office report it appears that opposite party No. 2 has personally received the notice as such, the service is deemed to be valid. Despite receiving notice the O.P. No. 2 chooses not to appear and to contest the case.

The learned counsel for the appellant submits that the informant has falsely alleged that she was raped on pretext of marriage it is next submitted both appellant and the informant belong to the Scheduled Caste category, thus it is submitted that offence under SC/ST Act is not attracted against the appellant. It is also submitted that the appellant and the informant have performed their marriage but the informant is not living with the appellant presently though she is legally wedded wife.

Learned Spl. P.P. for the State opposes the prayer for anticipatory bail of the appellant but is not in a position to rebut the submission of the learned counsel of the appellant the O.P. No. 2 despite receiving notice chooses not to appear and to contest.



In view of the submissions made by the learned counsel for the appellant, the order dated 14.07.2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Kishanganj in connection with Kishanganj Mahila P.S. Case No. 15 of 2022 is hereby set aside and the appellant above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending/successor court in connection with Kishanganj Mahila P.S. Case No. 15 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

Adnan/-

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