

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2939 of 2022**

Arising Out of PS. Case No.-487 Year-2020 Thana- FORBESGANJ District- Araria

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1. MD. SHAMSUL @ SHAMSUL @ SAMSUL Son of Allauddin Mian Resident of - Ward no.2, Ghoraghat, P.S.- Forbesganj, District - Araria.
 2. Md. Rahman @ Rahman Son of Asgar Miyan Resident of - Ramaye Kujada Tola, Ghoraghat, P.S.- Forbesganj, District - Araria.

... .. Appellant/s

Versus

1. The State of Bihar
2. Rakesh Paswan Raj Kishore Paswan Resident of Village- Ramaye, Ward No.9,Forbesganj, P.S.- Forbesganj, District- Araria

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ranjeet Choubey, Advocate
For the Respondent/s : Mr. Binay Krishna, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 28-06-2023 Heard learned counsel for the appellants 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 30.06.2022 in A.B.P. No. 1200 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Araria in connection with Forbesganj P.S. Case No. 487 of 2020 registered for the offences punishable under Sections 341, 323, 363, 365, 366(A), 370, 504 and 34 of



the Indian Penal Code as well as Sections 3(1)(r)(s) of the SC/ST Act.

Learned counsel for the appellants submits that notices were issued upon the respondent no. 2 but despite valid service of notice, the respondent no. 2 chooses not to contest the case, it is next submitted that allegation is of kidnapping but the victim has been recovered and she has not supported the case of the prosecution in her statement recorded under Section 164 Cr.P.C., it is further submitted even doctors have assessed the victim to be a major and this perhaps explains why the respondent no. 2 despite receiving the notice chooses not to contest the case.

Learned Spl. P.P. for the State opposes the prayer for anticipatory bail of the appellants.

In view of the submissions made by the learned counsel for the appellants, the order dated 30.06.2022 in A.B.P. No. 1200 of 2022 passed by the learned 1st Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Araria in connection with Forbesganj P.S. Case No. 487 of 2020 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. 5,000/- (Rupees Five 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 Forbesganj P.S. Case No. 487 of 2020 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

Accordingly the appeal stands allowed.

(Satyavrat Verma, J)

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