

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.5895 of 2015**

Arising Out of PS.Case No. -235 Year- 2014 Thana -PAHARPUR District- EAST  
CHAMPARAN(MOTIHARI)

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1. Ram Tapsya Singh @ Sadhu Baba son of Sudama Singh

.... .... Petitioner/s

Versus

1. The State of Bihar

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Sanjay Kumar No.-7

For the Opposite Party/s : Mr. Ambika Bhagat(Spl. PP)

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR**  
**SRIVASTAVA**  
**ORAL ORDER**

2      13-02-2015      Heard learned counsel for the petitioner as well as  
learned Special Public Prosecutor for the State.

Petitioner apprehends his arrest in connection with  
Paharpur P.S. Case No. 235 of 2014 registered for the offences  
punishable under Section 307 and other minor sections of the  
Indian Penal Code, 27 of the Arms Act as well as Section 3 (i) (x)  
of S.C./S.T. (Prevention of Atrocities) Act.

The first question arises for determination as to  
whether this petition filed under Section 438 of the Cr.P.C. is  
maintainable or not because admittedly, the learned Sessions  
Judge dismissed the petition filed by the petitioner under Section  
438 of the Cr.P.C. being not maintainable taking aid of Section 18  
of S.C./S.T. (Prevention of Atrocities) Act.



From bare perusal of the first information report, it would appear that the alleged occurrence took place on account of rejection of candidature of one Vishal Kumar and, therefore, the aforesaid fact clearly goes to show that the alleged occurrence never took place due to caste of the informant. Moreover, in almost similar situated fact, a co-ordinate bench of this court in the case of Lalit Kumar and others vs. The State of Bihar reported in 2007(1) PLJR held that if the allegations do not prima facie show the applicability of provisions of S.C. and S.T. Act, the petition filed under Section 438 of the Cr.P.C cannot be rejected only on the ground that case has been registered under the provisions of S.C./S.T. (Prevention of Atrocities) Act and, therefore, in my view, this petition filed under Section 438 of the Cr.P.C. is maintainable.

So far as the allegation against the petitioner is concerned, it is stated that he along with several others entered the office of the informant and not only damaged his office but also attempted to commit his murder by putting Gamcha around the neck of the informant.

Admittedly, the informant did not sustain any injury as no injury report has been brought on the record.

Considering the aforesaid facts and circumstances as

well as submissions of the parties, this anticipatory bail petition is allowed and it is ordered that petitioner, in the event of his arrest/ surrender within four weeks from the date of receipt of this order to the court concerned, shall be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Sri R. K. Razak, Judicial Magistrate 1st Class, Sadar, Motihari, East Champaran in Paharpur P.S. Case No. 235 of 2014 subject to condition as laid down under Section 438(2) of the Cr.P.C.

**(Hemant Kumar Srivastava, J)**

SHAHZAD/-

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