

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 40224 of 2014

Arising Out of PS.Case No. -93 Year- 2013 Thana -GAYA HARIZAN District- GAYA

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Vidya Bhushan Sharma @ Kucho Lal, Son of Late Deo Sharan Singh,
resident of Village- Ur-Bishanpur, Police Station- Alipur, District- Gaya.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL ORDER

2 16-04-2015

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

The petitioner apprehends arrest in Gaya
S.C./S.T. P.S. Case No. 93 of 2013 dated 24.09.2013 instituted
under Sections 341/323/354/504/506 of the Indian Penal
Code and Sections 3 (1) (x) (xi) of The Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, 1989
(hereinafter referred to as the 'Act')

Learned counsel for the petitioner submits that
because of the past rivalry with the wife of the petitioner and
the informant, which is admitted in the F.I.R., the present
false case has been lodged which is unbelievable and even
during investigation witnesses have stated that because of the
local political rivalry, the petitioner has been made accused. It
is further submitted that Section 3(1) (x) of the Act, is not
applicable in the present case as whatever allegation has been

made admittedly, the same is not within public view and as far as allegation under Section 3(1) (xi) of the Act is concerned, there has been no assault.

Learned Special P.P. opposes the prayer for anticipatory bail and submits that the jurisdiction of the Court under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the 'Code') to grant anticipatory bail is excluded by Section 18 of the Act which clearly stipulates that nothing in Section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act. It is submitted that in view of the allegation made under Section 3(1) (xi) of the Act which stipulates that if any person assaults or uses force and in the present case, the petitioner is alleged to have physically harassed the informant and thus clearly the said Section of the Act does apply in the present case.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds itself unable to exercise jurisdiction under Section 438 of the Code in view of the bar of Section 18 of the Act.

Accordingly, the application stands disposed off.

However, in the event the petitioner surrenders and prays for regular bail before the Court below, the same shall be considered on its own merits without being prejudiced

by the present order, preferably on the same day.

(Ahsanuddin Amanullah, J.)

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