

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.901 of 2016

Arising Out of PS.Case No. -68 Year- 2016 Thana -CHAUTHAM District- KHAGARIA

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Md. Mojahid, son of Late Mahamid, resident of village-Sarsawa, P.S.-Choutham,
District-Khagaria. Appellant

Versus

The State of Bihar Respondent

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Appearance :

For the Appellant/s : Mr. Viveka Nandsingh, Advocate

For the Respondent/s : Mr. Sadanand Paswan, SPP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 22-10-2016

This appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is directed against the order dated 18.08.2016 passed by the learned Sessions Judge, Khagaria in Bail Application No. 749 of 206 arising out of Chautham P.S. Case No. 68 of 2016 registered under Sections 147, 148, 149, 341, 323, 379, 307, 436, 504 of the Indian Penal Code, 27 of the Arms Act and 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (For short 'the Act') whereby the prayer for bail of the appellant has been rejected.

2. It is not in dispute that the offences punishable



under the Act have to be tried by a Special Court or Exclusive Special Court. The Act is a special law. The substituted second proviso of Section 14 of the Amendment Act, 2015, specifically confers power upon the Special Courts and Exclusive Special Courts to take cognizance of the offence directly as a court of original jurisdiction. It makes the legislative intent clear. In view of the above amendment, after its coming into force, the police would be required to transmit the FIR after institution of the case to the Special Court or the Exclusive Special Court, as a Court of original jurisdiction and for the same reason the charge-sheet or a complaint is also required to be filed before such Special Court or Exclusive Special Court for the offences under the SC & ST Act, 1989. It would further be evident that from the date of coming into force of the Amendment Act, 2015, the Court of Magistrate being not a Special Court or Exclusive Special Court within the meaning of Section 14 of the Act shall not have any jurisdiction to entertain any application and take cognizance of the offence under the Act. The requirement of the committal proceeding under Section 209 of the Code of Criminal Procedure has also been done away with. The object behind doing so is to enable speedy and expeditious disposal of the cases.

3. In view of the legislative changes, which came

into force with effect from 26.012016, no application for bail under Chapter XXXIII of the Code of Criminal Procedure could have been filed before the Sessions Judge, Khagaria, as the Sessions Judge, Khagaria has not been designated or specified as Special Court or Exclusive Special Court under the Act.

4. In that view of the matter, the impugned order dated 18.08.2016 passed by the learned Sessions Judge, Khagaria in Bail Application No. 749 of 206 arising out of Chautham P.S. Case No. 68 of 2016 is without jurisdiction. Accordingly, it is set aside.

5. The appellant would be at liberty to move for bail before the Special Court, Khagaria constituted under the Act.

6. The application is allowed to the extent indicated hereinabove.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
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