

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.1008 of 2016

Arising Out of PS.Case No. -70 Year- 2016 Thana -POTHIYA District- KISANGANJ

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Robin Sharma, S/o-Late Taran Sharma, Resident of Village-Lodhabari P.S.-Pothia,
District-Kishanganj.

.... Appellant.

Versus

The State of Bihar

.... Respondent.

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Appearance :

For the Appellant : Mr. Pankaj Kumar Sinha & Diwakar Sinha, Advocates.

For the State : Mr. Binay Krishna, Special PP (SC/ST) Act.

For the Informant : Mr. Utsav Kumar, Advocate.

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

ORAL JUDGMENT

Date: 16-12-2016

Heard learned counsel for the appellant as well as learned
Special P.P. for the State and learned counsel for the informant.

2. This criminal appeal, filed under section 14A (2) of the
SC/ST (Prevention of Atrocities) Amendment Act, is preferred against
the order dated 22.06.2016 passed by the learned Additional Sessions
Judge 1st, Kishanganj, in B.P.No. 128 of 2016 by which the prayer of
the appellant for regular bail in connection with Pothia P.S. Case
No.70 of 2016 was rejected.

3. The brief fact, which gives rise to file this criminal
appeal, is that the informant lodged Pothia P.S. Case No. 70 of 2016
against the appellant and others making allegation that the appellant



along with his henchmen assaulted him and others and also took away his brother, namely, Agar Soren.

4. On the basis of written report of the informant, the above stated case was registered and in course of investigation, the investigating officer reached at the house of appellant and recovered the victim Agar Soren from Verandah of the house of the appellant. However, Para-6 of the case diary goes to show that at the time of aforesaid recovery, an acknowledgement receipt was given by investigating officer to the appellant.

5. Learned counsel for the appellant submits that, as a matter of fact, the present case was lodged on account of political rivalry. It is further submitted that the appellant and his supporters were making canvassing amongst the voters but informant and his supporters created hurdle upon which hot exchange of words took place between them. However, the informant and his supporters chased the appellant and others, as a result whereof the appellant and his supporters fled away from there leaving behind their vehicles. It is further submitted that while the appellant and his supporters were fleeing from the place of occurrence, the victim met on the way and he was caught by the mob but, anyhow, the appellant got saved the life of victim and brought him to his house and, in the meantime, the police party reached there and, thereafter, the appellant handed over



the victim to the police and that is the reason, the police gave an acknowledge receipt to the appellant. The injury report of victim goes to show that he sustained simple injury said to be caused by hard and blunt substance.

6. The written report of the informant goes to show that the alleged occurrence took place on the eve of Panchayat Election and the informant was candidate of Mukhiya in the said election. Moreover, the appellant was supporting another candidate, who was also a member of scheduled tribe community. So far as allegation of abusing the informant by calling his caste name is concerned, it is settled principle of law that mere calling caste name does not constitute an offence under SC/ST(Prevention of Atrocities) Amendment Act.

7. The impugned order goes to show that the learned Additional Sessions Judge rejected the prayer for bail of the appellant only on the ground that the appellant had made attempt to commit murder of informant and his brother. The learned Additional Sessions Judge 1st, Kishanganj, failed to take note of the defence as raised by the appellant before lower Court at the time of consideration of regular bail application of the appellant.

8. Considering the aforesaid facts and circumstances as well as submission of the parties, I am of the opinion that the



impugned order cannot be sustained in the eye of law. Accordingly, this criminal appeal is allowed and the impugned order dated 22.06.2016 passed by the Additional Sessions Judge 1st , Kishanganj, in B.P. No.128 of 2016 is hereby set aside.

9. Accordingly, the appellant, above named, is directed to be released on bail on furnishing bail bonds of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of Additional Session Judge 1st, Kishanganj, in connection with Pothiya P.S.Case No. 70 of 2016.

(Hemant Kumar Srivastava, J)

N.K/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.12.2016
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