

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 56767 of 2015

Arising Out of PS.Case No. -90 Year- 2014 Thana -NAOKOTHI District- BEGUSARAI

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Priyanka Devi @ Priyanka Kumari D/o Ram Japo Mahto Resident of
village- Rajakpur, P.S.- Nawkothe, District- Begusarai.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ravi Shankar Sahay
Mr. Randhir Kumar No-1

For the Opposite Party/s : Mr. D.P.Tiwary (App)

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

5. 30-11-2016 Heard Sri Ravi Shankar Sahay, learned counsel, who
was assisted by Sri Randhir Kumar No. 1, learned counsel for the
petitioner and Sri Damodar Prasad Tiwary, learned Addl. Public
Prosecutor.

The petitioner has approached this Court with a
prayer to grant anticipatory bail under Section 438 of the Cr.P.C.
in Naokothi P.S. Case No. 90 of 2014 registered initially under
Sections 302, 201, 34 of the Indian Penal Code and subsequently
after three months, Section 3(i)(x) of the Scheduled Castes and the
Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short
“SC/ST Act”) was added in the F.I.R.

Learned counsel for the petitioner, on being asked as
to whether in view of recent Division Bench judgment the present



anticipatory bail petition under Section 438 of the Cr.P.C. can be maintained, replied that present case was filed in the year 2014 before judgment of the Division Bench and as such, petition under Section 438 of the Cr.P.C. is maintainable. He has further tried to persuade the Court that on perusal of the F.I.R. itself, offence under Section 3(i)(x) of the SC/ST Act is not applicable.

However, fact remains that during investigation, offence under the provision of SC/ST Act was added in the F.I.R. It has been held by the Division Bench that in a case relating to offence under the provision of SC/ST Act, after rejection of bail from the lower court, petition under Section 438 of the Cr.P.C. is not maintainable. For that very purpose, appropriate remedy is available in the SC/ST Act itself by way of filing appeal.

In view of ratio laid down by the Division Bench of this Court passed in Cr. Misc. No. 25276 of 2016 dated 27-10-2016, the present petition stands dismissed as same is not maintainable. If so advised, the petitioner may file appropriate petition.

(Rakesh Kumar, J.)

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