

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 39172 of 2016

Arising Out of PS.Case No. -61 Year- 2015 Thana -KATIHAR MUFFASIL District- KATIHAR

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Mithun Rai son of Prem Lal Rai, Resident of Village-Bhattha Tola, Police
Station-Katihar (Mufassil), District-Katihar

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar

For the Opposite Party/s : Mr. Sadanand Paswan, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2. 22-09-2016 Heard Sri Ajay Kumar, learned counsel for the
petitioner and Sri Sadanand Paswan, learned Special Public
Prosecutor for SC/ST Act.

The sole petitioner, apprehending his arrest in Katihar
(Mufassil) P.S. Case No. 61 of 2015 registered for offence under
Sections 341, 323, 447, 427, 506, 504/34 of the Indian Penal Code
and Section 3 (i)(s) of the Scheduled Castes and the Scheduled
Tribes (Prevention of Atrocities) Act, 1989 (in short “SC/ST
Act”), has prayed for grant of anticipatory bail.

It was submitted by learned counsel for the petitioner
that in the present case, the alleged *ferdbeyan* was recorded on
11-05-2015, whereas, F.I.R. was lodged much belatedly on
02-06-2015 and also, there was no injury report available in the



case diary. He submits that a false case has been concocted by the informant, due to the reason that earlier some complaints were lodged against the son of the informant regarding allegation of abusing daughter of one of the accused in the present case. He submits that only with a view to give seriousness of the offence, it has been alleged that accused persons have committed offence under the provisions of SC/ST Act, whereas, according to learned counsel for the petitioner, the abuse by caste name was not done in public place and the occurrence alleged had taken place in the night at 11:00 P.M. On aforesaid ground, a prayer has been made to grant anticipatory bail.

Learned Special Public Prosecutor has opposed the prayer for grant of anticipatory bail. He submits that it is a case for violation of provisions under SC/ST Act and as such, according to Section 18 of the SC/ST Act, anticipatory bail petition may not be entertained.

Besides hearing, I have also perused the materials on record. It is true that in view of Section 18 of the SC/ST Act, there is restriction to entertain anticipatory bail petition, however; if the Court is satisfied that only with a view to make the allegation serious, the allegation for violation of SC/ST Act is made, in such cases, the Court can exercise its jurisdiction under Section 438 of

the Code of Criminal Procedure, 1973.

Accordingly, in view of nature of accusation, in the event of arrest or surrender within a period of six weeks from today, let the petitioner namely Mithun Rai be enlarged on bail on furnishing bail bond of **Rs. 10,000/-** (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar in connection with Katihar (Mufassil) P.S. Case No. 61 of 2015, subject to condition as laid down under Section 438(2) of the Cr.P.C.

(Rakesh Kumar, J.)

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