

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.57334 of 2015**

Arising Out of PS.Case No. -119 Year- 2015 Thana -NIRMALI District- SUPAUL

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MANIK LAL SAH @ MANIK LAL SAHU S/o late Narayan Sah Resident  
of Village- Hariyahi, P.s Nirmali, District Supaul.

.... .... Petitioner

Versus

The State of Bihar

.... .... Opposite Party

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**Appearance :**

For the Petitioner : Mr. Rajendra Sharma, Advocate

For the State : Mr. Sadanand Paswan, Spl. P.P

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**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**  
**ORAL ORDER**

2 20-01-2016

I have heard learned counsel for the petitioner and the  
Spl. P.P. for the State.

The petitioner apprehends his arrest in connection  
with Nirmali P.S. Case No. 119 of 2015 registered for offences  
punishable under Sections 452, 376/34 of the Indian Penal Code  
and 3(1) (x) of the Scheduled Castes and Scheduled Tribes  
(Prevention of Atrocities) Act, 1989 (hereinafter referred to as ‘the  
SC/ST Act”).

It is contended on behalf of the petitioner that the  
entire story is wrong as no injury has been found as well as no  
spermatozoa has also been found in the medical report dated  
20.6.2015.

Learned Spl. P.P. appearing for the State has

submitted that this application would not be maintainable in view of the provisions contained in Section 18 of the SC/ST Act which lays down that nothing in section 438 of the Cr.P.C. shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

Per contra, learned counsel appearing for the petitioner has placed reliance upon a decision of this Court rendered in **Sajjo Vs. The State of Bihar [2010(2) PLJR 690]**. In the aforesaid case this Court has held that though an application under Section 438 Cr.P.C. with respect to the offence under the provisions of SC/ST Act is not maintainable as a matter of right either before the High Court or before the Court of Sessions, however, if the circumstances shows that in view of the offences alleged the provisions of the SC/ST Act are not applicable then certainly such petition would be maintainable.

In the present case the allegation is of raping a woman of Scheduled Caste. Section 3(xi) of the SC/ST Act covers the cases in which any woman belonging to a Scheduled Caste or a Scheduled Tribe has been assaulted with the intent to dishonour or outrage her modesty.

Thus, in the present case, since there is direct allegation against the petitioner of raping of woman of Scheduled

Caste and learned counsel for the petitioner has not been able to show from the first information report that no allegation under the SC/ST Act is made out, this Court does not find it a fit case in which privilege of anticipatory bail could be granted to the petitioner.

Petition is rejected.

However, it is clarified that in case the petitioner surrenders and seeks regular bail then that should be disposed of in accordance with law without being prejudiced by the present order.

**(Dr. Ravi Ranjan, J)**

Spd/-

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