

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Appeal (SJ) No.299 of 2017**

Arising Out of PS.Case No. -4 Year- 2015 Thana -SC/ST District- GOPALGANJ

- =====
1. Shambhu Singh son of late Fuleman Singh
  2. Appu Singh son of Shambhu Singh Both are residents of village –  
Barahara, Police Station - Bhore, District - Gopalganj (Bihar).

.... .... Appellant/s

Versus

The State of Bihar.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Umesh Kumar Singh

For the Respondent/s : Mr. Sri Sadanand Paswan

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**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR**  
**TRIVEDI**  
ORAL ORDER

3      30-03-2017                      Heard learned counsel for the appellants as well as  
learned Special P.P.

Instant appeal has been preferred in accordance with  
Sections 14A(2) of SC/ST (POA) Act for grant of anticipatory bail  
after having been refused by the Ist Additional Sessions Judge,  
Gopalganj relating to SC/ST Gopalganj P.S. Case No. 4 of 2015,  
under ABP No. 3642 of 2016.

The learned counsel for the appellants at the first instance  
has been requested to disprop the principle decided by the  
Division Bench in **Bisheshwar Mishra vs. The State of Bihar &**  
**Ors.** reported in 2016(4) PLJR 1058 and further mode of  
appreciation relating to observation made thereunder at para 27



and 28 in order to trace out the allegation whether satisfy ingredients of SC/ST (POA) Act, the learned counsel for the appellants has submitted that even after the judgment up till January, 2017 anticipatory bail has been granted by another Bench. Furthermore, it has also been submitted that at an earlier occasion also, informant had filed similar type of case. However, no Annexure is available on the record, which could substantiate the same. It has also been submitted that that there happens to inordinate delay in institution of the instant case without any explanation and so, the allegation has to be construed in the aforesaid background, which does not inspire confidence and further, on the aforesaid facts and circumstances of the case, appellants are found entitled for grant of anticipatory bail. So far the allegations are concerned, it has also been submitted that the same has purposely been introduced, which, for the present, could not be accepted in order to defeat prayer of the appellants.

Learned Special P.P. has opposed the prayer.

Before pronouncement of **Bisheshwar Mishra** case, reported in 2016(4) PLJR 1058, the Apex Court perceived the bar having prescribed under Section 18 of the SC/ST (POA) Act relating to maintainability of Anticipatory bail and held in **Vilas Pandurang Pawar vs. State of Maharashtra**, reported in *AIR*



*2012 SC 3316*, that for the purpose of application of SC/ST (POA) Act the Court is empowered to see at a glance the allegation having put forward by the written report/ fardbeyan/ complaint and for that no in depth scrutiny of the allegation has been permitted. In Bisheshwar Mishra case, the same view has been followed as is evident from para 27 as well as 28. That being so, the allegation on its face is only to be seen without any deviation.

In the background of the aforesaid observation having made by the Division Bench, when the allegation on its face has been gone into, it is apparent that there happens to be applicability of SC/ST (POA) Act and on account thereof, in terms of Section 18 of the Act, instant memo of appeal, in terms of Anticipatory bail is found not maintainable and is, accordingly, dismissed.

**(Aditya Kumar Trivedi, J)**

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