

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Miscellaneous No.57904 of 2015**

Arising Out of PS.Case No. -77 Year- 2015 Thana -ARA HARIJAN District- BHOJPUR

=====

1. Koshila Devi, wife of Late Bijeshwar Ram, Resident of village- Piro, P.S.- Piro, District- Bhojpur at ARA, presently residing at Mohalla Sarvodaya Nagar, Infront of Bank Colony, P.S.- ARA Nawada, District- Bhojpur, Ara.

.... .... Petitioner/s

Versus

1. The State of Bihar

2. Amit Kumar @ Guddu, Son of Late Devendra Kumar Singh, Resident of Mohalla- Harijee Ke Hata, P.S.- ARA Nawada, District- Bhojpur at Ara.

.... .... Opposite Party/s

=====

**Appearance :**

For the Petitioner/s : Mr. Sushil Kumar Singh, Adv.

For the Opposite Party No. 2 : Mr. Ashok Kumar Singh-3, Adv.

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

=====

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

**ORAL JUDGMENT & ORDER**

**Date: 30-01-2017**

Heard the parties.

2. The present application, under Section 439(2) of the Code of Criminal Procedure, 1973 has been filed seeking cancellation of anticipatory bail granted to opposite party No. 2 in connection with S.C/S.T. P.S. Case No. 77 of 2015, registered for the offence punishable under Section 342, 448, 323, 354(B), 504 and 506/34 of the Indian Penal Code read with Section 3(1) (x) (xi) of the Scheduled



Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (*hereinafter referred to as the S.C./S.T. Act*). He has been allowed bail *vide* order, dated 14.10.2015, passed by learned Additional Chief Judicial Magistrate, Bhojpur at Ara, in connection with the said case.

3. Learned counsel for the petitioner has made two submissions in support of the prayer in the present application. He has firstly submitted that learned Additional Chief Judicial Magistrate, Bhojpur at Ara did not have jurisdiction to grant bail as such power exists in the Special Court, defined under Section 2(d) of the S.C./S.T. Act. It has secondly been submitted that the opposite party No. 2 is threatening the informant and the other witnesses and also trying to influence the witnesses after his release on bail.

4. So far as the first ground is concerned, I am not at all convinced. On conjoint reading of Section 2(d) with Section 14 of the S.C./S.T. Act, it is easily noticeable that the offences, under the S.C./S.T. Act, are to be tried by the Court of *Sessions* as Special Court constituted upon notification in official gazette by the State Government with the consultation of Chief Justice of the High Court. It does not prescribed that only the Special Court shall have the power to take cognizance and grant bail in cases disclosing offence punishable under the S.C./S.T. Act. It is a different matter that upon enactment of S.C./S.T. Act, 2015, the situation has materially



changed, which is not applicable in the present case, date of occurrence being 20.09.2015.

5. It goes without saying that the petitioner shall have the liberty to inform the police or the court below if opposite party No. 2, in any manner, threatens the petitioner or the other witnesses in connection with the case in hand. If that is done, the police or the Court, as the case may be, inquire into it and take appropriate steps.

6. This application is, accordingly, disposed of.

**(Chakradhari Sharan Singh, J)**

Praveen-II/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | N/A        |
| Uploading Date    | 03/02/2017 |
| Transmission Date | 03/02/2017 |

