

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1163 of 2016

Arising Out of PS.Case No. -312 Year- 2016 Thana -BHABHUA District- BHABHUA (KAIMUR)

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1. Bisheshwar Mishra
 2. Hanuman Mishra @ Sidheshwar Nath Mishra, both sons of Narayani Mishra, resident of village-Barhuli, P.S. Sonhan, Dist.-Kaimur.
- Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Alok Kumar Choudhary-Advocate
 Mr. Nagendra Kumar-Advocate
 Mr. Kulanand Jha –Advocate
 For the Respondent/s : Mr. Sadanand Paswan-S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

12 16-03-2017 Heard learned counsel for the appellants as well as
 learned Special Public Prosecutor.

Instant memo of appeal has been filed for grant of an anticipatory bail after having been refused by the learned lower Court. At an earlier occasion, the matter was heard and then, vide order dated 09.08.2016, perceiving some conflicting judgment, the matter was referred to the Division Bench, which ultimately been decided and thereupon, the matter has been remitted back.

While deciding the issue, the Division Bench took notice of the embargo having prescribed under Section 18 of the Act in consonance with the judicial pronouncement having made by the Hon'ble Apex Court, more particularly in connection with *Vilas Pandurang Pawar and another v. State of Maharashtra*



and others reported in A.I.R. 2012 SC 3316 and further, acknowledged some sort of relaxation while appreciating the prosecution case over non-applicability of S.C./S.T. (Prevention of Atrocities) Act and further, discussed the same under Paragraph-27 thereof. However, under Paragraph-28, it has restricted the scrutiny of the materials forbidding roving inquiry. Side by side, enlightened that for the aforesaid purposes, the allegation at a glance is to be perceived from the written report/ F.I.R./ complaint petition.

Proceeding ahead under the ambit of aforesaid pronouncement, the written report on its face has been gone through wherefrom, presence of prima facie case is found. Consequent thereupon, instant petition is found duly barred in terms of Section 18 of the Act.

Consequent thereupon, instant petition is rejected.

However, it is made clear that in case of surrender at the end of the appellants, the instant order will not cause prejudice to the interest of the appellants.

(Aditya Kumar Trivedi, J)

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