

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1143 of 2016

Arising Out of PS.Case No. -46 Year- 2015 Thana -BARARI District- KATIHAR

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GANESH CHAUDHARY SON OF LATE SHIV MANGAL
CHOUDHARY, RESIDENT OF VILLAGE-SARABARA, P.O.-
TALGRAM HAT, P.S.-HARISH CHANDRAPUR, DISTRICT-MALDA
(W.BENGAL) AT PRESENT H/O RANJEET YADAV, SAMAPUR
BANKA ROA, P.S.-BARARI, DISTRICT-KATIHAR.

.... APPELLANT/S

VERSUS

THE STATE OF BIHAR

.... RESPONDENT/S

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Appearance:

For the Appellant/s : Mr. Raghvendra Kumar Singh, Adv.

For the Respondent/s : Mr. Sri Sadanand Paswan, SPP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

9 07-03-2017

Heard learned counsel for the appellant, learned counsel for
the informant as well as learned Special Public Prosecutor.

Appellant along with others opened a chit fund and further, to
facilitate deposit informant along with others were identified as an agent. In
usual course, as it happens money was digested whereupon, the informant
brought this case.

Learned counsel for the appellant has submitted that as he
himself happens to be a member of scheduled caste on account thereof, there
would not be applicability of continuance of instant case apart from others,
including SC ST Act. To substantiate the same, Annexure-5 has been filed. It
has also been submitted that after appearance of the opposite party/informant
the matter was referred to High Court Mediation Centre where the amount
having been deposited by the informant has duly been identified as
Rs.1,06,704/- but informant is insisting upon payment of Rs.2,97,600/- which
includes deposit at the end of other agents and in case the aforesaid amount is
directed to be deposited then, in that event, another case will be filed against



the appellant with regard to remaining. However, it has also been submitted that appellant is ready to deposit the total amount appertaining to Rs.2,97,600/- but with a condition that aforesaid amount should not be allowed to be retained by the informant till conclusion of the trial and further, the aforesaid amount would not be considered adverse to the interest of the appellant during course of trial.

The learned Special P.P. along with learned counsel representing the informant/opposite party no.2 have submitted that in Bihar '*Mallah*' is under backward community and so the caste certificate having filed on behalf of appellant granted by the Gram Panchayat falling under West Bengal would not apply. Furthermore, it has also been submitted that appellant should not be allowed to enjoy the privilege of anticipatory bail as it relates to ponzy. Furthermore, it has also been submitted that the prayer for anticipatory bail of other co-accused had already been rejected vide Cr. Misc. No.57618/2015.

Annexure-5 is not under controversy and in likewise manner the permanent resident of the appellant falling under West Bengal. In the aforesaid background for the present, there happens to be relevancy of Annexure-5.

The Hon'ble Apex Court has directed that in case the dispute relates with economic offence, then in that event after deposit of the amount anticipatory bail should be granted. That being so, on deposit of Rs.2,97,600/- within the span of six months, appellant Ganesh Chaudhary will be released on bail in event of his arrest/surrender in connection with Barari (Semapur) P.S. Case No.46/2015 on furnishing bail bond of Rs.10,000/-(ten thousand) of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Katihar after setting aside the order impugned.



Consequent thereupon, instant appeal is allowed in above referred terms. It is made clear that the amount will be deposited in the Civil Court and further, will be released after conclusion of the trial. The deposit of aforesaid amount will not cause any kind of hindrance prejudicially to the interest of the appellant during course of trial to the extent of an admission at his end.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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