

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.1218 of 2016

Arising Out of PS.Case No. -16 Year- 2016 Thana -ST/SC (HARIJAN) District- BHABHUA
(KAIMUR)

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1. MANJU DEVI WIFE OF BIRBAL SINGH
2. BISHNU PRABHAKAR SINGH @ TWINKAL SON OF BIRBAL SINGH.
RESIDENT OF VILLAGE-DAHARAK, P.S.-RAMGARH,
DISTRICT-KAIMUR.

.... APPELLANT/S

VERSUS

THE STATE OF BIHAR

.... RESPONDENT/S

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Appearance:

For the Appellant/s : Mr. Arabind Nath Pandey, Adv.

For the Respondent/s : Mr. Binay Krishna, SPP

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 01-03-2017 Heard learned counsel for the appellants as well as
learned Special Public Prosecutor.

Instant appeal has been preferred against an order dated 18.09.2016 passed by Additional Sessions Judge, 1st, Kaimur at Bhabhua in Anticipatory Bail Petition No.948/2016.

Written report was filed on behalf of Manish Ram disclosing therein that on 10.01.2016 while he along with other labourers were sinking hand pipe at the house of Jung Bahadur Singh, it has been alleged that Birbal Singh, Manju Devi and Vishnu Prabhakar Singh @ Twinkle came and began to abuse. Furthermore, they forbid him to proceed with the work. The informant directed them to talk with master over which they abused calling caste name and further assaulted with *lathi* over his



head which Ram Uchit Kushwaha protected by his hand and on account thereof, he sustained injury. Furthermore, the informant apprehended fracture of hand. Even thereafter repeated *lathi* blow went on over the informant causing injury over his back, hand and neck. Thereafter, Birbal Singh provoked his son to bring gun, with a further direction that they all will be shoot at. When he gone to his house to bring gun, the informant and others managed to escape. It has also been incorporated that they chased up to Ramgarh.

Contention on behalf of appellants is that there happens to be specific allegation against Birbal and not against Manju Devi, Vishnu Prabhakar Singh @ Twinkle. It has further been submitted with allegation should be perceived independently, separately and further, during course thereof, no allegation against SC/ST Act is found attributable against these two petitioners. It has also been submitted that Jung Bahadur is cousin brother of Birbal Singh and there happens to be land dispute amongst them and at whose instance, his servant has purposely launched this case with false allegation. It has also been submitted that petitioner Manju Devi had filed application before SDM, Mohania disclosing therein that Radha Mohan Singh, Ravi Shankar Singh, Aditya Singh, Brijmohan Singh, Raju Ranjan Singh all are



forcibly erecting boundary wall causing obstruction of her ingress, outgress. So in the aforesaid facts and circumstances, it has also been submitted that appellants are entitled for an anticipatory bail.

The learned Special P.P. opposed the prayer.

In *Bisheshwar Mishra vs. State of Bihar* reported in *2016(4) PLJR 1058* at para-28 it has been held:

“28. We reiterate that while considering the application under Section 438 of the Code, it is not open to the Court to enter into roving inquiry of the veracity of allegations levelled under the Act. It can only look to the First Information Report or the Complaint just in order to prima facie determine whether the ingredients of any offence under the Act at all can be said to have been attracted against the person seeking pre-arrest bail.”

In the aforesaid background, after having cursory perusal of the written report, it is evident that there happens to be no proper identification of any of the accused to have abused the informant rather there happens to be specific disclosure that all the three, after their arrival began to abuse the informant by caste. Therefore, submission having made on behalf of appellants that these appellants could not be dragged under SC/ST (POA) Act appears to be completely washed away from the written report itself.



That being so, in terms of Section 18 of the SC/ST
(POA) Act , instant appeal for anticipatory bail would not survive.
Hence rejected.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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