

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.38 of 2017

Arising Out of PS.Case No. -58 Year- 2016 Thana -SC/ST District- BEGUSARAI

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1. Pritam Kumar Singh, Son of Mukesh Singh, Resident of Village-
Katarmala ,P.S.- Dandari, District- Begusarai

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukul Prasad -Advocate

For the Respondent/s : Mr. Binay Krishna-S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

02 09-02-2017 Heard learned counsel for the appellant as well as
learned Special Public Prosecutor.

Informant, a student as well as Member of Scheduled Caste along with his cousin sister was returning over bus after attending coaching institute was manhandled by the appellant along with co-accused Himanshu Kumar Singh including two unknown persons on the pretext that being a Member of Scheduled Caste, he would not be allowed to share a seat along with them.

It has been submitted on behalf of appellant that occurrence is of dated 29.09.2016, written report was submitted on 30.09.2016. So, there happens to be inordinate delay, which has been used only for launching this case to make the offence graver



so that appellant should not get anticipatory bail otherwise the students fought among themselves only for sharing of the seat, which would not have occurred in a manner stated by the prosecution. So, considering the inordinate delay as well as malafide approach at the end of the prosecution, registration of instant case under S.C./S.T. (Prevention of Atrocities) Act should not be allowed to survive. Consequent thereupon, appellant be allowed to enjoy privilege of anticipatory bail.

On the other hand, learned Special Public Prosecutor opposed the prayer.

While entertaining a prayer under Section 438 of the Cr.P.C. how far the Court has to proceed that has been decided in ***Bisheshwar Mishra and another vs. State of Bihar reported in 2016(4) P.L.J.R. 1058 (D.B.)*** and for better appreciation Paragraph-28 is quoted below:-

“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.”

Because of the fact that the Court has been forbidden to make in depth scrutiny of the matter rather to ascertain applicability of S.C./S.T. (Prevention of Atrocities) Act, a glance will be sufficient and that being so, when the written report is taken into consideration, the allegation on its face attracts applicability of S.C./S.T. (Prevention of Atrocities) Act and on account thereof, the prayer for anticipatory bail in terms of Section 18 thereof, is found duly barricaded.

Consequent thereupon, instant memo of appeal sans merit and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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