

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.628 of 2017

Arising Out of PS.Case No. -45 Year- 2016 Thana -SC/ST District- SITAMARHI

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Mahant Veer Raghav Prapanna Ramanuj Das @ Mahant Raghav Prapanna
Ramanuj Das @ Ramchandra Sharma

.... Appellant

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Appellant/s : Mr. Vaidehi Raman Prasad Singh

For the Respondent/s : Mr. Sri Ram Naresh Ray

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**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI**
ORAL ORDER

6 05-05-2017 Heard, learned counsel for the appellant as well as
learned A.P.P. along learned Spl.P.P.

On account of refusal of prayer for anticipatory bail
vide order dated 21.06.2016 passed by 1st Addl. Sessions Judge,
Sitamarhi-cum-Special Judge, Scheduled Castes & Scheduled
Tribes (Prevention of Atrocities) Act, Sitamarhi in A.B.P. no.
1072/2016/124/2016, the same has been challenged in the present
appeal in pursuance of Section 14A(2) of the Act.

Informant Dashai Baitha filed written report on
01.06.2016 disclosing therein that during course of construction of
house over survey plot no. 4260, appellant along with others
(so named therein) armed variously, made criminal trespass,
abused by caste name and forbidden him from further
construction. On his protest, he was brutally assaulted and then



whole structure was dismantled.

It has been submitted at the end of the learned counsel for appellant that whatever allegation has been leveled at the end of the informant happens to be false and frivolous and the same has been made with ulterior motive, misusing the privilege of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. To substantiate such plea, it has been submitted that informant was knowing since before that *khasra* no. 4260 belongs to the appellant which, during course of revisional survey, was wrongly recorded and the same found corrected during consolidation proceeding under case no. 671 of 1978. It has also been submitted that falsity of the case is itself evident from the fact that in the written report, it has been disclosed that on account of *panchayati*, there has been some sort of delay while on the alleged date of occurrence that means to say, on 26.05.2016 itself, informant had filed a petition before the O/C (Annexure-3) whereupon, police recommended for initiation of proceeding under Section 144 Cr.P.C. (Annexure-4). That being so, neither FIR happens to be maintainable in the eyes of law nor, the assertions, whatever been leveled is acknowledgeable. It has also been submitted that informant was doing illegal activity and for that, the villagers have reported the matter (Annexure-2) on



account of removing bricks from the road. In sum and substance, it has been pleaded that in the aforesaid background, neither the allegation so leveled at the end of the informant happens to be correct version of the occurrence nor, there would be application of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act because of the fact that genesis of occurrence happens to be land dispute and further, the materials so placed suggest appellant to be owner of the land. Therefore, informant happens to be aggressor whereupon, he should not be allowed to take shelter of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. Consequent thereupon, to protect the legal right of the appellant, he should be allowed anticipatory bail.

Learned Addl.P.P. as well as learned Spl.P.P. have refuted the submission and submitted that once a case has been registered under Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act and further, on due consideration, the ingredients thereof are found wholly exposed then, in that event, the prayer for anticipatory bail would not lie. Furthermore, it has also been submitted that whatever grounds, the appellant may have, those things happen to be for proper consideration during course of regular bail, which the appellant may avail.



Section 18 of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act speaks about non-maintainability of anticipatory bail which is found duly acknowledged and legally permissible, and further, operative by the Hon'ble Apex Court while considering the legality of Section 18 and further, declines to declare it ultra vires and that being so, when there happens to be registration of a case under Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, Section 18 will come in between over consideration of anticipatory bail and on account thereof, the petition for anticipatory bail would not lie. Even after amendment, having introduced in the year 2016, Section 18 retains its position. Considering the hardship of the accused in the background of Section 18, the Hon'ble Apex Court in **Vilas Pandurang case reported in AIR 2012 SC 3316** has given some sort of privilege wherein, an obligation has been cast upon the Court to consider the allegation on its face to search out whether there happens to be application of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act or not and if so, the anticipatory bail would not lie and if not, the appellant be given privilege thereof. The said principle has been followed by the Division Bench in **Bisheshwar Mishra case** reported in **2016 (4) PLJR 1058** and para 27 as well as para 28 thereof explain the issue summarizing in what manner



there would be consideration forbidding roving enquiry. That being so, the submission made on behalf of appellant placing reliance upon different annexures, certainly, would be subject matter of meticulous consideration and will cover the roving enquiry. So, in the background of the settled principle of law, the Court has only to see whether from the allegation on its face, so attributed at the end of the informant, a prima facie case attracting Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act is made out or not. From perusal of the written report, the same appears and that being so, in terms of Section 18 of the Act, the instant memo of appeal is found non-maintainable and is accordingly, dismissed. Moreover, during consideration of regular bail, the learned lower court will appreciate the plea in proper legal way without being influenced by the instant order.

(Aditya Kumar Trivedi, J.)

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