

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.489 of 2017

Arising Out of PS.Case No. -298 Year- 2016 Thana -MUFFASIL District-
WESTCHAMPARAN(BETTIAH)

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1. Sonu Dicruz @ Aloysius Dicruz Son of late Elias Jhon Dicruz Resident
of Mohalla- Christian Quarter, P.S.- Bettiah Town, District- Bettiah, West
Champaran. Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Birendra Kumar Singh, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

5 17-04-2017 Heard learned counsel for the appellant, learned Special
PP for the State as well as learned counsel for the informant.
Supplementary affidavit has been filed and kept on record.

While preferring this appeal for grant of anticipatory
bail on account of registration of this case under Section SC/ST
(POA) Act, a plea has been taken on behalf of appellant that
appellant as well as informant who at the earliest, were members
of the Scheduled Caste and Scheduled Tribe respectively,
converted to Christianity where no caste system prevails and on
account thereof, registration of instant case, apart from different
Sections of the IPC, under SC/ST (POA) Act, is not at all
maintainable. Hence, appeal be allowed by granting anticipatory
bail to the appellant.

Learned counsel for the informant has placed certified
copy of order dated 27.01.2017 and submitted that cognizance has
already been taken under different Sections of IPC including under



Sections 3(1) (G) (R) and 3 (2) (V-a) SC/ST Act, whereupon prayer is not at all maintainable.

Whenever there happens to be cognizance under SC/ST (POA) Act apart from other allied Sections of different enactment including Indian Penal Code, prayer for anticipatory bail would not lie as has been held by the Hon'ble Apex Court in the case of ***Bachu Das v. State of Bihar*** as reported in ***(2014) 3 SCC 471*** as well as ***Manju vs. Onkarjit Singh Ahluwalia @ Omkarjeet Singh & Others in connection with Cr. Appeal No.570 of 2017*** arising out of ***S.L.P. (Cri) No.1929 of 2015***.

However, considering the submissions made on behalf of rival parties, it is apparent that under the present mode of adjudication, the lis having arisen before the Court would not be properly decided and on account thereof at the submission of the respective learned counsels, instant appeal is directed to be converted to a petition under Section 482 of the CrPC.

Appellant as well as office to proceed in terms thereof.

The aforesaid exercise must be completed within a fortnight and be listed 'for admission' accordingly.

(Aditya Kumar Trivedi, J)

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