

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Appeal (SJ) No.706 of 2017**

Arising Out of PS.Case No. -16 Year- 2016 Thana -SC/ST District- SITAMARHI

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1. Hiraban Sahni, Son of Bilat Sahni  
 2. Shiv Kala Devi @ Shiv Kali Devi, Wife of Hiraban Sahni,  
 3. Jira Kumari, D/o Hiraban Sahni. All are resident of Village- Raipur, P.S.-  
 Nanpur, District- Sitamarhi.

.... .... Appellant/s

Versus

1. The State of Bihar

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Uday Kumar -Advocate

For the Respondent/s : Mr/s Usha Kumari-1-S.P.P.

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

03    18-04-2017                      Heard learned counsel for the appellants as well as  
 learned Special Public Prosecutor.

Appellants have filed instant appeal in accordance  
 with Section 14A(1) of the S.C./S.T. (Prevention of Atrocities)  
 Act against an order dated 17.01.2017 passed by the Additional  
 Sessions Judge-1<sup>st</sup>, Sitamarhi under A.B.P. No.2215 of 2016,  
 whereby and whereunder prayer for grant of anticipatory bail has  
 been refused.

Learned counsel for the appellants has submitted that  
 specific allegation has been made only against appellant no.1,  
 Hiraban Sahni and so, the status of remaining appellants that  
 means to say, Shiv Kala Devi @ Shiv Kali Devi and Jira Kumari



are quite distinguishable apart from their status being female. That being so, appellant nos.2 and 3 should be allowed to enjoy the privilege of anticipatory bail.

On the other hand, learned Special Public Prosecutor opposed the prayer and submitted that by virtue of presence of Section 18 of the Act, prayer for anticipatory bail is non-maintainable.

Though, Section 18 of the S.C./S.T. (Prevention of Atrocities) Act debars filing of an anticipatory bail, but considering the principle decided by the Hon'ble Apex Court in ***Vilas Pandurang Pawar vs. State of Maharashtra reported in A.I.R. 2012 SC 3316*** and in ***Bisheshwar Mishra and another vs. State of Bihar reported in 2016(4) P.L.J.R. 1058 (D.B.)***, wherein it has been observed that prayer for anticipatory bail is found entertainable, but during course of consideration of the same, a prima facie material is to be seen from the fard-bayan/ written report/ complaint forbidding roving inquiry and in case, no ingredient is found, then in that event, anticipatory bail would be granted.

That being so, the allegation on its face is to be seen while perceiving the status of the appellants during course of adjudicating upon the prayer relating to anticipatory bail.



Under the garb of aforesaid legal proposition, when the written report has been gone through, it is apparent that informant, who happens to be a member of Scheduled Caste as well as happens to be proprietor of a grocery shop, who was present at her shop, accused persons so named therein including the appellants armed variously came at her shop, abused by calling her caste's name, looted away articles, assaulted and during course thereof, Hiraban Sahni caught hold her *Sari* and by his subsequent action, outraged her modesty. Furthermore, he set ablaze the cattle shed.

Considering the allegation on its face, fully satisfy the ingredients of S.C./S.T. (Prevention of Atrocities) Act and on account thereof, in terms of Section 18 of the Act, instant appeal sans merit and is accordingly, dismissed.

**(Aditya Kumar Trivedi, J)**

Vikash/-

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