

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.35 of 2017

Arising Out of PS.Case No. -223 Year- 2016 Thana -BAKHRI District- BEGUSARAI

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Ashish Anand, Son of Devanand Singh @ Saheb Singh, resident of Village
- Parihara, Police Station - Bakhri, District - Begusarai at present resident of
A/3 Veena Apartment, Chandra Vihar Colony, Bartand Dhैया Road, Police
Station - Dhanbad, District - Dhanbad (Jharkhand).

.... Appellant/s

Versus

The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Viveka Nandsingh, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

4 **03-04-2017**

Heard learned counsel for the appellant as
well as learned Special Public Prosecutor.

Counter affidavit has been filed on behalf of
opposite party, taken on record. From perusal of the
counter affidavit, it is evident that the deponent who
happens to be Dy.S.P., Begusarai has not controverted
whether on 06.06.2016 appellant was under custody or
not rather it has been stated at his end that aforesaid
date has wrongly been mentioned in the written report
as, during course of investigation it has been collected
that instead of 06.06.2016 it happens to be 06.06.2015.

Be that as it may, filing of written report



after a year and further, the allegation for which SC/ST (POA) Act is found attracted relates with Saheb Singh which the informant had faced on 29.10.2016. Furthermore, there happens to be no presence of appellant at that very occasion.

The bare perusal of the written report in consonance with the averments of the counter affidavit, it is evident that in terms of observation having under para-27, 28 of the ***Bisheshwar Mishra vs. State of Bihar*** reported in ***2016(4) PLJR 1058***, no case against the appellant is found on its face to be under the provisions of SC/ST (POA) Act and that being so, in event of his arrest or surrender within four weeks from the date of receipt of instant order, appellant Ashish Anand is directed to be released on bail on furnishing bail bonds of Rs.10,000/-(ten thousand) with two sureties of the like amount each, to the satisfaction of learned Special Judge, SC/ST, Begusarai in connection with Bakhri P.S. Case No.223/2016, in terms of condition imposed under Section 438(2) of the Cr.P.C. after setting aside the order dated 19.11.2016 passed in ABA No.1585/2016 passed by Special Judge, SC/ST, Begusarai.



Consequent thereupon, appeal is allowed.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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