

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.277 of 2017

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

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Himanshu Kumar Singh @ Himanshu Kumar, Son of Lallan Kumar Singh,
Resident of Village- Katarmala, P.S.- Dandari, District- Begusarai.

.... Appellant/s

Versus

The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sandip Kumar Gautam

For the Respondent/s : Mr. Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR
TRIVEDI
ORAL ORDER

3 29-03-2017 Heard learned counsel for the petitioner as well as the

learned Special P.P.

The informant who happens to be a member of scheduled caste along with his cousin Dolly Kumari were abused by caste name while travelling on a Bus and was assaulted by the accused persons as he sat in front of their seat.

Learned counsel for the appellant has submitted that there happens to be no specific allegation with regard to utterances by caste name and that being so, no offence under SC/ST (POA) Act could be made out and on account thereof, the deice so prescribed in terms of Section 18 of the Act would not apply. Furthermore, the learned counsel for the appellant submitted that the youngsters fought amongst themselves on petty matter. If



allowed to remain under custody, their future will be ruined. That being so, it is a fit case wherein the appellant should be allowed to avail the privilege of anticipatory bail.

Learned Special P.P. opposed the prayer and submitted that allegations on its face satisfy the ingredients of applicability of SC/ST (POA) Act and on account thereof, instant appeal in form of anticipatory bail would not lie.

Section 18 of SC/ST (POA) Act bars entertainment of a petition under the banner of 438 Cr. P.C. Its vires had already been tested by the Apex Court. However, in due course of time, the matter again came up before the Hon'ble Apex Court in the case of **Vilas Pandurang Pawar vs. State of Maharashtra**, reported in *AIR 2012 SC 3316*. Some sort of relaxation has been allowed and that too, over appreciation of the allegation which should be perceived in cursory manner and the same has been followed by the Division Bench in the case of **Bisheshwar Mishra vs. The State of Bihar & Ors.** reported in 2016(4) PLJR 1058 para 27 as well as 28.

Now, coming to the allegation, it is apparent from bare perusal that there happens to be applicability of SC/ST (POA) Act on account of abusing the prosecution party in a bus knowing since before that they belong to scheduled caste and further such



abusement was by their caste name followed with assault.

Consequent upon, instant appeal is found duly
barricaded in terms of Section 18 of the SC/ST (POA) Act,
whereupon is dismissed.

(Aditya Kumar Trivedi, J)

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