

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.913 of 2017

Arising Out of PS.Case No. -34 Year- 2016 Thana -PALANWA District-
EASTCHAMPARAN(MOTIHARI)

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Anil Kushwaha, Son of Bhagawati Mahato, R/o vill. - Mudawa, P.S.
Palanawa, District - East Champaran, Motihari

.... Appellant/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Sadanand Paswan-S.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

03 26-04-2017 Heard learned counsel for the appellant as well as
learned Special Public Prosecutor.

Informant, Khuti Das while was repairing his hut,
was protested by the appellant along with Awadh Kishore
Kushwaha, Sunar, Sugandhi Devi and further, when the informant
did not accede to abide with their direction by way of removing
his presence, they abused by calling caste name and further,
Awadh Kishore Kushwaha gave rod blow over his head causing
injury thereupon, while appellant took away Rs.450/-. Thereafter,
he got himself examined by a doctor and then filed written report.

It has been submitted on behalf of appellant that this
case happens to be counter blast of Palanawa P. S. Case No.33 of
2016, lodged at their end. It has also been submitted that the



occurrence neither took place at public place nor within public view and so, there happens to be no ingredient of S.C./S.T. (Prevention of Atrocities) Act. Consequent thereupon, appellant is entitled for grant of an anticipatory bail.

On the other hand, the learned Special Public Prosecutor opposed the prayer and submitted that registration of a case under S.C./S.T. (Prevention of Atrocities) Act itself debars entertainment of a petition for grant of an anticipatory bail in accordance with Section 18 thereof. Furthermore, it has also been submitted that some sort of relaxation, so prescribed by way of catena of judicial pronouncement, out of which the recent one happens to be ***Bisheshwar Mishra and another vs. State of Bihar reported in 2016(4) P.L.J.R. 1058 (D.B.)***, the allegation on its face is to be seen whether it attracts applicability of S.C./S.T. (Prevention of Atrocities) Act or not. So far present case is concerned, after perusal of the written report, it is evident that there was an attempt at the end of the appellant including others to dispossess the informant, a Member of a Scheduled Caste from his land and on account thereof, Section 3(1)(f)(g) would be attracted and on account thereof, prayer for anticipatory bail would not survive.

Considering the rival submission as well as going



through the allegation on its face finding a prima facie case satisfying the ingredients of S.C./S.T. (Prevention of Atrocities) Act, on account thereof, instant appeal is found non-maintainable and is accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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