

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No. 3181 of 2018

Arising Out of PS.Case No. -493 Year- 2018 Thana -MASAUDHI District- PATNA

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1. Ashok Kumar, Son of Brahamdeo Prasad, Resident of Mohalla - Hospital Road,
Masaurhi, Police Station - Masaurhi, District - Patna.

.... Appellant/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 06-09-2018

Heard learned counsel for the parties.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 18.07.2018 in A.B.P. No. 5128 of 2018 passed by the learned 5th Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Patna in connection with Masaurhi P.S. Case No. 493 of 2018 registered under Sections 341, 323, 354A, 354B, 504, 506 of the Indian Penal Code as well as Sections 3(1)(w)(r) of the SC/ST Act.

The appellant is running a shop in the house of the informant. Appellant claims that he is in possession of the shop under an agreement to sale between the parties. Agreement was entered into



in the year 2007. The appellant filed Title Suit No. 35 of 2017 for enforcement of agreement to sale and by order dated 17.10.2017, the learned Munsif, Masaurhi ordered the defendants/informant not to interfere with the possession of the appellant on the shop. Thereafter case and counter case i.e. Masaurhi P.S. Case No. 154 of 2018, dated 09.03.2018, Annexure-3, alleging criminal offences were filed and in the present case, allegation is that the appellant abused the informant by taking caste name and committed assault. The FIR disclosed that reason for the occurrence is the disputed shop.

Submission of the learned counsel for the appellant is that there is case and counter case, in the background of the aforesaid dispute.

Learned counsel for the informant opposed the prayer for bail on the ground that FIR clearly discloses offence under the provisions of the SC/ST Act. Hence, bar under Section 18 of the SC/ST Act is applicable. After investigation of the counter case, the police submitted final form accepting the plea of alibi of the accused.

Learned Special Public Prosecutor opposed the prayer for bail.

Considering the background of the allegation and the order of the competent civil court, the chances of mala fide prosecution of the appellant cannot be ruled out, hence, let the appellant, above



named, in the event of his arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs.20,000/- (rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the appellant shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellant as well as condition that both the bailors shall be resident of within the territorial jurisdiction of the learned court below.

Accordingly, the impugned order is set aside and this appeal stands allowed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	07.09.2018
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