

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Appeal (SJ) No.1085 of 2018**

Arising Out of PS.Case No. -43 Year- 2014 Thana -SC/ST District- SITAMARHI

- =====
1. Manish Kumar Jha @ Manish Jha, Son of Uday Kant Jha,
  2. Vikash Kumar Jha @ Vikash Jha, Son of Uday Kant Jha, residents of Village- Harsingpur, P.O.- Manik Chowk, P.S.- Runnisaidpur, District- Sitamarhi.

.... .... Appellant/s

Versus

1. The State of Bihar.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Ashhar Mustafa, Advocate

For the Respondent/s : Mr. Sadanand Paswan, SPP

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**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR**

**ORAL JUDGMENT**

**Date: 10-05-2018**

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 against the refusal of prayer for anticipatory bail by the learned Additional Sessions Judge I-cum-Special Judge (S.C./S.T. Act), Sitamarhi, in connection with Sitamarhi SC/ST Police Station Case No.43 of 2014 registered under Sections 341/323/448/ 427/ 379/ 354/ 504/34 of the Indian Penal Code and Sections 3(i)(x)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

In the past, case and counter case was lodged between the parties on 31.10.2014 vide Annexure-2. Soon thereafter, the present



FIR had been lodged on 04.11.2014.

Considering the earlier criminal cases between the parties, the police submitted closure report in the present case. However, learned Court-below had differed with the police report and taken cognizance against the appellants.

Submission of the learned counsel for the appellants is that the offences under Sections 379/354 are not alleged against the appellants and allegation under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is general and omnibus. Moreover, when two views are possible on the same facts for the purpose of consideration of this appeal, for pre-arrest bail, the view in favour of the appellants should be preferred.

Finding substance in the submission aforesaid, let the appellants, above named, in the event of their 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 bonds of Rs.20,000/- (Twenty Thousand) each 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 appellants 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 appellants.

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

**(Birendra Kumar, J)**

Mkr./-

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