

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.1649 of 2018

Arising Out of PS.Case No. -130 Year- 2017 Thana -SC/ST District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Chandra Shekhar Bharti, S/o Late Bishwanth Bharti,
 2. Gaurav Raj @ Gaurav Bharti S/o Chandra Shekhar Bharti,
 3. Saurav Bharti @ Saurabh Bharti S/o Chandra Shekhar Bharti, All are R/o Vill. - Balua Ramgarhwa, P.S.- Ramgarhwa District- East Champaran , At present residing I Marwari Gali (Near Kali Mandir) Ward No.11, Raxaul, P.S.- Raxaul, District - East Champaran.

.... Appellant/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shiva Shankar Sharma
For the Respondent/s : Mr. Binay Krishna

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 17-07-2018

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 04.04.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST (POA) Act, East Champaran at Motihari in A.B.P. No.407 of 2018, arising out of SC/ST P.S. Case No.130 of 2017, registered under Sections 341, 323, 379, 406, 420, 504, 506/34 of the Indian Penal Code as well as Sections 3(1) (a) (r) (s) of the SC/ST Act.

Appellant No.2, *Gaurav Raj @ Gaurav Bharti* has already



been arrested. Hence his prayer for anticipatory bail has become infructuous now.

Submission of the learned counsel for the appellants is that one *Ajay Kumar Yati* had lodged Govindganj (Arayraj) Police Station Case No.200 of 2017 against the appellants and other family members alleging therein that they have kidnapped to the daughter of *Ajay Kumar Yati*. On recovery the victim stated that she had love affairs and she had voluntarily gone. Thereafter, the appellants and others were allowed bail in that case. Just to pressurize the present informant has been set-up by *Ajay Kumar Yati* and this F.I.R. contains general and omnibus allegation of commission of abuse and assault, for the reason that informant had advanced Rs.70,000/- (Rupees Seventy Thousand) to *Purnima Bharti*, wife of appellant, *Chandra Shekhar Bharti* for getting contract to supply tables and benches in the school. The contract was not provided, hence the informant was demanding money.

Submission is that there is no paper to prove payment of such a huge amount.

Learned counsel for the informant opposed the prayer for anticipatory bail on the ground that F.I.R. prima facie discloses the commission of offence and at this stage this Court cannot go into meticulous appreciation of the case.

Considering the background of allegation, chances of mala fide prosecution cannot be completely ruled out at least for the purpose of consideration of prayer for anticipatory bail. Hence other appellants



namely- (1) *Chandra Shekhar Bharti* and (3) *Saurav Bharti @ Saurabh Bharti*, 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/- (rupees 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 bonds of the appellants.

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

(Birendra Kumar, J)

Abhishek/

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

