

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3419 of 2018

Arising Out of PS. Case No.-35 Year-2018 Thana- SC/ST District- Patna

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Sri Kamlesh Kumar @ Kamlesh Kumar, 32 Years S/o Suresh Prasad @ Suresh Singh, R/o Vill.- Teka Bigha, P.O.- Asrapur, P.S.- Daniawan, District- Patna At present -Director of Kamlesh Moscon Pvt. Ltd., At C.D.A. Colony, P.S.- Shastrinagar, Patna-23.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Kumar Dubey
For the Respondent/s : Mr. Sadanand Paswan

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 04-12-2018

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 10.08.2018 in A.B.P. No. 5807 of 2018 passed by the learned 4th Additional Sessions Judge-cum-Special Judge S.C./S.T. (POA) Act, Patna in connection with Patna Sachiwalay SC/ST P.S. Case No. 35 of 2018, Spl. Case No. 357/18 registered under Sections 341, 323, 406, 420, 504, 506, 120B/34 of the Indian Penal Code as well as Sections 3(i)(r)(g), 3(2)(va) of the SC/ST Act.

The informant is an employee of the Bihar Secretariat.
He had sold his land to the appellant’s company after receipt of entire



consideration money through registered sale deed dated 04.04.2016 which would be evident from Annexure-2, the copy of the registered sale deed. The legal notice sent by the informant to the appellant at Annexure-3 would reveal that both were in good relation and the sale deed was executed voluntarily without any consideration granting receipt of payment of entire consideration. However, subsequently, the appellant transferred Rs.7,50,000/- as part consideration money to the bank account of the informant and again transferred Rs.2,50,000/- and again Rs.1,49,800/-. However, a cheque issued of Rs.30,00,000/- allegedly bounced.

Submission of the learned counsel for the appellant is that there was no reason to issue a cheque of Rs.30,00,000/- because even the consideration money disclosed in the sale deed is Rs.23,00,000/- and odd. His contention is that cheque was only of Rs.3,00,000/- which was interpolated by the informant and made Rs.30,00,000/-. In the circumstance, the cheque bounced due to insufficient fund in the account. That is the bone of contention between the parties and reason for false allegation that appellant allegedly abused to the informant by taking caste name.

Learned counsel for the informant opposed the prayer for anticipatory bail on the ground that apparently the offence under the SC/ST Act is made out.

Considering the background of allegation chances of *mala fide* prosecution cannot be ruled out for the purpose of



consideration of prayer for anticipatory bail and for protection of the right of the appellant. 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 anticipatory 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 the territorial jurisdiction of the learned court below.

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

(Birendra Kumar, J)

Kundan/Rajan

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	05.12.2018
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