

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.34119 of 2018

Arising Out of PS.Case No. -26 Year- 2018 Thana -SAKRA District- MUZAFFARPUR

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Vicky Kumar @ Vikram Kumar Singh, Son of Bipin Singh, Resident of
Village- Dubha, P.S. Sakra, District- Muzaffarpur.

.... Petitioner

Versus

The State of Bihar.

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Jagannath Singh, Advocate.

For the Opposite Party : Mr. Binay Krishna, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 26-07-2018 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner is apprehending his arrest in a case for
the offence registered under Sections 341, 323, 448, 504, 506 of
the IPC, 3(i)(x) of SC/ST (POA) Act and 37(c)(d) of Bihar
Prohibition and Excise Act, 2016.

The prosecution story, in brief, is that on 22.01.2018
at 5.30, the son of the informant, Ranjan Kumar, was sat at the
door and suddenly Raushan Kumar and Vickky Kumar in drunken
state, came and forcibly be seated her son upon the motorcycle
and taken away by abusing. On creating doubt, Rohit Kumar also
went from behind and asking the caste of Ranjan Kumar they
assaulted and threw him saying that *Chamar Kya Kar Lega* and



also assaulted Ranjan. When Ranjan not met, the police was informed and after getting Ranjan, his treatment was going on in hospital.

It has been pointed out by the Stamp Reporter that the petitioner may prefer an appeal under SC/ST Act.

From perusal of the record, it appears that the order has been passed by 2nd Additional Sessions Judge-cum-Special Judge, Excise, Muzaffarpur, on 13.04.2018 as to when an appeal under SC/ST Act can be preferred as per Section 14(A) of the SC/ST (POA) Act, 1989.

“14-A. Appeals.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.

(2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.

(3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:

Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.

(4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal”.



Admittedly, in the present case, the order passed by the learned 2nd Additional Sessions Judge-cum-Special Judge, Excise, Muzaffarpur, is not as per the provision of Section 14(A) of SC/ST (POA) Act. Hence, no appeal will lie in the present case.

It has been submitted by learned counsel for the petitioner that the petitioner has got no criminal antecedent. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has been made accused in the present case due to village politics. The petitioner is alleged to be in intoxicated state as to when there is no medical finding in respect of allegation made against the petitioner for being in intoxicated state. So far as offence under SC/ST (POA) Act is concerned, the same is not attracted in the present case as the place of occurrence is not a public place nor the alleged occurrence is in public view. There is no other substantive evidence to suggest the implication of the petitioner in this case. There is no recovery of liquor from the conscious possession of the petitioner.

On behalf of the State, it is submitted that the petitioner is named in the F.I.R/ Complaint Case.

Considering the aforesaid facts and circumstances, let the petitioner above named, in the event of arrest or surrender before the learned court below within a period of six weeks from



today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge, Excise Act, Muzaffarpur, in connection with Sakra P.S. Case No. 26/2018, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

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(Sudhir Singh, J)

