

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1082 of 2019**

Arising Out of PS. Case No.-20 Year-2018 Thana- SC/ST District- Araria

RAMESH MEHTA @ RAMESH KUMAR MEHTA @ Ramesh Prasad Mehta, Son of Ram Prakash Mehta, Resident of Village - Rampur Bangsara, P.S.- Forbesganj, District - Araria

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Abhijeet Gautam

For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 24-06-2019 Heard learned counsel for the appellant and learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the SC/ST Act against the refusal of prayer for anticipatory bail vide order dated 09.01.2019 passed by learned 1st Addl. Sessions cum Special Judge, Araria in Special (SC/ST) Case No. 61 of 2018 arising out of Araria (SC/ST) P.S. Case No. 20 of 2018 registered under Sections 341, 323 and 504 of the Indian Penal Code and Section 3(i)(r) of the SC/ST Act.

Brother of the informant is said to be driver of the appellant. Appellant is said to be running drug business and in connection with the said business, his brother was sent to jail. When the informant went to the house of the appellant to get his brother released and requested to accord money to contest the



case, he slated him in the name of his caste and shoved him out of his house.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. He has been falsely implicated in the case. No offence under SC/ST Act is made out as the occurrence of slating the informant in the name of his caste took place inside the house of the appellant and not in the public view.

Per contra, learned Spl. PP for the State opposing the bail petition submitted that the appellant has already availed the privilege of Section 41 Cr.P.C, hence in view of the verdict of this Court in **Mahendra Prasad Singh Vs. The State of Bihar** reported in **2004 (3) PLJR 491**, anticipatory bail of the appellant is not maintainable.

From perusal of the impugned order, it appears that the appellant is on police bail.

It is settled principle of law that once the appellant has been granted bail either by the police or by the Court, the petition under Section 438 Cr.P.C. on behalf of the appellant is not maintainable.

In that view of the matter, the present appeal is dismissed with a direction to the appellant to surrender before



the learned Court below within six weeks from today and seek regular bail and the learned court below shall dispose of the bail petition of the appellant in accordance with law without being prejudiced by this order.

It goes without saying that the appellant shall be granted the benefit of the judgment of this Court rendered in the case of **Mahendra Prasad Singh Vs. The State of Bihar reported in 2004 (3) PLJR 491** and particularly para-5 of the judgment.

(Prakash Chandra Jaiswal, J)

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