

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1202 of 2019**

Arising Out of PS. Case No.-52 Year-2015 Thana- SC/ST District- Nawada

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OM PRAKASH VERMA @ PRABHU MAHTO Son of Amrit Mahato
Resident of Village - Manawan, P.S.- Hisua, Distt - Nawada.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Nihar Nandan Ambasta
For the Respondent/s : Mrs. Usha Kumari 1

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

4 26-06-2019

Re.: I.A. No.1 of 2019

Appellant has filed the aforesaid interlocutory application for condonation of delay of 51 days in preferring this appeal.

Having regard to facts and circumstances of the case, averment made in petition finding sufficient cause for condonation of delay, delay in preferring the appeal is condoned. I.A. is accordingly allowed.

Cr. Appeal (SJ) No.1202 of 2019

Heard learned counsel for the appellant and learned Special Public Prosecutor for the State.

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 04.10.2018 passed by learned 1st Addl. Sessions Judge, Nawada in connection with Nawada P.S. Case No. SC/ST P.S. Case No.52 of 2015 registered under Sections 341, 323, 504, 379 and 307/34 of the Indian Penal Code and Section 3(i) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

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 rejected 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 lower Court would consider the same 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.

With the aforesaid observation and direction, this appeal stands disposed of.

(Prakash Chandra Jaiswal, J)

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