

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1788 of 2019

Arising Out of PS. Case No.-9 Year-2018 Thana- SC/ST District- Vaishali

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1. Rakesh Singh Son of Rana Singh Resident of Village- Bilandpur, P.S.- Mahua, District- Vaishali.
 2. Sohan Singh Son of Rana Singh Resident of Village- Bilandpur, P.S.- Mahua, District- Vaishali.

... .. Appellants.

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Awadhesh Kumar Singh
For the Respondent/s : Mr. Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

5 15-07-2019 Heard learned counsel for the appellants 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 in short referred to as the 'SC/ST Act') against the refusal of prayer of anticipatory bail vide order dated 20.02.2019 passed by learned 1st Additional Sessions Judge cum Special Judge, Vaishali at Hajipur in connection with SC/ST P.S. Case No.09 of 2018 registered under Sections 341, 342, 323, 325 & 504/34 of the Indian Penal Code and Section 3(1) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Over row of plucking Shajan by the son of the informant appellants are said to have slated them in the name of caste and assaulted him by tying with rope consequently he fell senseless.

It is submitted by learned counsel for the appellants that no such occurrence as alleged ever took place. Appellants have been falsely implicated in the case due to dirty village politics. The allegation of slating and assault levelled against the appellants is not specific rather general and omnibus in nature. Victim has not sustained any injury. Appellants have no criminal antecedent.

Per contra, learned Special Public Prosecutor for the State opposing the prayer for bail submitted that the appellants are enjoying the police bail, hence there is no apprehension of arrest of the appellants.

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

In that view of the matter, the present appeal is rejected with a direction to the appellants 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 on the same day.

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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