

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1958 of 2019**

Arising Out of PS. Case No.-5 Year-2019 Thana- SC/ST District- Aurangabad

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ASGAR ALI @ MD. ASGAR ANSARI @ MD. ASHGAR ANSARI Son of
Late Md. Ishak Ansari Resident of Village - Jogiya, P.S.- Barun, District-
Aurangabad

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ashok Kumar Singh

For the Respondent/s : Mr.Binay Krishna

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

ORAL ORDER

4 17-07-2019 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 09.04.2019 passed by learned 1st Addl. Sessions Judge cum Special Judge, SC/ST Act, Aurangabad in SC/ST Case No. 5 of 2019 registered under Sections 341, 323, 384, 354, 504 and 506 of the Indian Penal Code and Section 3(r)(s)/3(2)(va) of the SC/ST Act.

Appellant is said to have descended at the PDS shop of the informant and demanded Rs.10,000/-, one gunny bag wheat, one gunny bag rice and 50 litres Kerosene oil per month in extortion and also slapped him and slated him in the name of



his caste and when his wife rushed in his rescue, he also slapped and fisted her and pulled her saree.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. There is case and counter case between the parties. Informant was indulged in black-marketing which was opposed by the wife of the appellant who happens to be Mukhiya of the Gram Panchayat Tegra and due to aforesaid reason informant has falsely implicated the appellant in the case.

On the other hand, learned Spl. PP for the State submitted that the appellant is on police bail and there is no apprehension of his arrest in the case, hence anticipatory bail is not maintainable.

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 on the very date of his surrender



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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