

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2353 of 2019

Arising Out of PS. Case No.-176 Year-2018 Thana- SINGHIYA District- Samastipur

Buchchan Mukhia Son of Raghunath Mukhiya Resident of Village- Kundal,
P.S.- Singhia, District- Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raja Ram Mishra
For the Respondent/s : Mr.Binay Krishna

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

4 20-11-2019 Heard learned counsel appearing for appellant as
well as learned Special Public Prosecutor for State.

The appellant is aggrieved by the order dated 5.4.2019 passed by learned 1st Additional Sessions Judge, Samastipur in Anticipatory Bail Petition No. 646/2019 by which and whereunder he dismissed the prayer for anticipatory bail of the appellant taking note of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (hereinafter referred to as “the SC ST Act).

The appellant has been made accused in Singhia P.S. Case No. 176 of 2018 registered under Sections 307 and other minor Sections of the Indian Penal Code as well as Section 3(1) (r) and Section 3(1) (s) of SC ST Act. Petitioner approached



learned 1st Additional Sessions Judge, Samastipur, for grant of anticipatory bail but his prayer was rejected by learned 1st Additional Sessions Judge, Samastipur *vide* impugned order dated 5.4.2019 on the ground of maintainability of the petition filed on behalf of the appellant under Section 438 of the Code of Criminal Procedure.

Learned counsel appearing for appellant assailed the impugned order submitting that the first information report reflect that no case under the SC ST Act is made out and if the first information report does not disclose any offense of SC ST Act, Section 18 of SC ST Act does not apply to the facts of the present case but even then the 1st Additional Sessions Judge rejected the bail prayer of the appellant on the ground that the petition filed on behalf of the appellant is not maintainable. He, further, submits that so far as the offences of Indian Penal Code are concerned, it is said that the appellant gave *Paghar* blow on the head of the informant but the injury report of informant goes to show that she sustained simple injury on her head and, therefore, even if the above stated allegation of assault assumed to be true, then also, no case under Section 307 of the Indian Penal Code is made out. Learned counsel of the appellant, further, submits that almost all the other accused



have been granted privilege of anticipatory bail by a coordinate Bench of this court *vide* order dated 6.8.2019 passed in Criminal Appeal (SJ) No. 1511 of 2019.

On the other hand, learned Special Public Prosecutor opposed prayer submitting that there is specific allegation of giving *Pagharia* blow on the head of the informant, therefore, the appellant does not deserve anticipatory bail.

Considering aforesaid facts and circumstances as well as submissions of the parties, this criminal appeal is allowed and the impugned order dated 5.4.2019 is, hereby, set aside.

Accordingly, it is ordered that the appellant, namely Buchchan Mukhia, be released on bail, in the event of arrest/surrender before the court below within a period of six weeks from today in Singhia P.S. Case No. 176 of 2018 (GR No. 1614 of 2018), on furnishing bail bond of Rs.10,000(Ten Thousand Rupees) with two sureties of the like amount each to the satisfaction of 1st Additional Sessions Judge – cum – Special Judge, SC ST Act, Samastipur subject to the conditions as laid down under sub-section(2) of Section 438 of the Code of Criminal Procedure.

In the aforesaid manner this criminal appeal stands



disposed of.

(Hemant Kumar Srivastava, J)

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