

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2531 of 2019

Arising Out of PS. Case No.-422 Year-2013 Thana- MAJHAULIA District- West Champaran

1. LALMUNI KHATOON Wife of Mohan Rai Resident of Village- Pakarihar, P.S.- Chanpatia, District- West Champaran.
2. Munna Alam Son of Mohan Rai Resident of village- Pakarihar, P.S.- Chanpatia, District- West Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bimlesh Kumar Pandey

For the Respondent/s : Mr.Binay Krishna

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

4 23-08-2019 Heard learned counsel for the appellants 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 13.02.2019 passed by learned 1st Addl. Sessions Judge cum Special Judge, West Champaran at Bettiah in Majhauria P.S. Case No. 422 of 2013 registered under Sections 406, 420, 467, 468, 471/34 of the Indian Penal Code and Section 3(i)(x) of the SC/ST Act.

Co-accused Hasnain Rai and Ramtullah Khan arriving at the house of the informant assured him to manage job for him in the Railway as Group 'D' employee claiming the accused



Ramtullah Khan as the influential person. Appellants also gave assurance to the informant about the influence of the said Ramtullah Khan and on the aforesaid assurance informant gave Rs.3 lacs to Hasnain Rai. Out of the aforesaid amount, Hasnain Rai handed over Rs. 1 lac to Ramtullah Khan but they did not manage job for him in Railway and on demand of money by the informant, Hasnain Rai promised him to return the money but in vain and slated him in the name of his caste.

It is submitted by learned counsel for the appellants that the appellants have no concern with the aforesaid occurrence. They have been falsely implicated in the case. Informant has not given any money to them. There is case and counter case between the parties. Moreover aforesaid agreement to secure appointment by unfair means itself is unlawful and prohibited under the law is *void ab initio* under the Indian Contract Act and concept of cheating shall have no application where the Act which is stated to constitute cheating was itself an offence. Appellants have no criminal antecedent.

Learned Spl. PP for the State opposed the prayer for bail.

Having regard to the facts and circumstances of the



case and in view of the aforesaid case law, let the above named appellants, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of the learned 1st Addl. Sessions Judge cum Special Judge, West Champaran at Bettiah in connection with Majhauria P.S. Case No. 422 of 2013, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

Accordingly, the impugned order is set aside and appeal is allowed.

(Prakash Chandra Jaiswal, J)

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