

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2727 of 2019**

Arising Out of PS. Case No.-6 Year-2016 Thana- SC/ST District- Jamui

PINKU SINGH Son of Madan Singh Resident of Village- Nawadih, P.S.-
Sikandara, District- Jamui

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Amrendra Kumar, Adv
For the Respondent/s : Mrs.Usha Kumari No.1, Spl. APP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 29-11-2019

Heard learned counsel for the parties.

This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by order dated 07.05.2019 in A.B.P. No.522 of 2019 passed by the learned A.D.J.-1st, Jamui in connection with Jamui SC/ST P.S.Case No. 06 of 2016 registered under Sections 342,323,504,506/34 of the Indian Penal Code as well as under Sections 3(i)(x) of the Scheduled Castes and Scheduled Tribes Act.

Allegation against the appellant and other named accused is that they assaulted to the informant as well as to the father of the informant by tying them with a rope. The injured got treatment in the hospital. Prayer for anticipatory bail has been



refused by the learned Special Judge on the ground that application for anticipatory bail is not maintainable.

Learned counsel for the appellant submits that though there is allegation in the FIR that the appellant had also participated in the occurrence of assault, however during investigation, it revealed through the statement of witnesses examined before the police that the appellant was not there at the time of occurrence. He further submits that though allegation is that the occurrence took place at brick-kiln of the appellant, however, it is not evident that the same was a public place or the occurrence took place in view and presence of the public. Hence, offence under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not made out and once offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is not made out, the bar of consideration of his prayer for anticipatory bail is not attracted.

Learned Special Public Prosecutor for Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act opposed the prayer for anticipatory bail on the ground that the statute specifically bars entertainment of prayer for anticipatory bail, if there is allegation of commission of offence under the Act. Hence, no judgment passed prior to the amendment is applicable unless



and until the provisions of Section 18 and 18(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is itself declared ultra vires by a competent court.

Section 18 and Section 18(A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are being reproduced below.

“18. Section 438 of the Code not to apply to persons committing an offence under the Act.—Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

18-A. No enquiry or approval required.-(1) For the purposes of this Act,-

(a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or

(b) the investigating officer shall not require approval for arrest, if necessary, of any person,

against whom an accusation of having committed an offence under this Act has been made and no



procedure other than provided under this Act or the Code shall apply.

(2) The provision of section 438 of the Code shall not apply to a case under the Act, notwithstanding any judgment or order or direction of any Court.”

Since accusation of commission of offence of assault against the member of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is there now it is no requirement of law that the occurrence must take place in public view. Therefore, I do not find any infirmity with the impugned order.

Accordingly, this appeal stands dismissed as devoid of any merit.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
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