

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2854 of 2019

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

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1. Rajikul Islam @ Sajikul Rahman Male, aged about 40 years, Son of Abdul Hakim Resident of Village - Patharbasti, Mohiuddinpur, P.S.- and Dist.- Kishanganj.
 2. Fulara Begam @ Ful Begam @ Fulwa, Female, aged about 30 years, W/o Sajikul Rahman @ Rajikul Islam Resident of Village - Patharbasti, Mohiuddinpur, P.S.- and Dist.- Kishanganj.

... .. Appellant/s

Versus

1. The State of Bihar
2. Dinesh Ram, Male, aged about 26 years, Son of Parmeshwar Ram Resident of Village-Motibagh, P.S. and District-Kishanganj

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Md. Tarique Yazdani, Advocate
For the Informant	:	Mr. Dilip Kumar Singh, Advocate
For the State	:	None

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 16-11-2019

Prayer is made on behalf of learned counsel for the appellants for time.

2. Nobody appears on behalf of the State. Learned counsel for the informant-opposite party no. 2 has assisted the Court.

3. The appellants apprehend arrest in connection with Kishanganj (SC/ST) PS Case No. 05 of 2019 instituted under Sections 420, 406, 409, 341, 323, 504, 506, 427/34 of the Indian Penal Code; 138 of the NI Act and 3(1)(e)(r)(s) of the Scheduled



Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the 'Act').

4. Learned counsel for the informant raised a preliminary objection and submitted that after getting an order for no coercive steps on 18.07.2019, the matter is being getting adjourned and on 19.09.2019 also, adjournment had been taken. It was further submitted that there are four other cases against the appellant no. 1 and a wrong statement has been made in paragraph no. 3 that he has no criminal antecedent. Learned counsel submitted that the appellant no. 1 has been arrested in connection with another case and, thus, for all practical purposes, the present case has also become infructuous.

5. Learned counsel for the opposite party no. 2 has taken the Court through the FIR in which there is an allegation that the appellants dragged the informant to the road and then assaulted and abused him taking his caste name. In such view of the matter, when *prima facie*, an offence under the Act has been made out, in the considered opinion of the Court, the bar under Section 18 of the Act would apply and, thus, petition under Section 438 of the Code of Criminal Procedure, 1973, seeking pre-arrest bail is not maintainable.



6. For reasons aforesaid, the application stands dismissed.

7. The interim protection given to the appellants under order dated 18.07.2019, stands withdrawn.

(Ahsanuddin Amanullah, J.)

P. Kumar

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