

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2791 of 2019**

Arising Out of PS. Case No.-60 Year-2015 Thana- SC/ST District- Purnia
=====

NITIN KUMAR Son of Late Nagendra Jaipuriyar Resident of Mohalla-
Majhali Chowk, P.S.- K. Hat (Madhubani), District- Purnea.

... .. Appellant

Versus

1. The State of Bihar
2. Raman Kumar Suman Son of Late- Rohin Das Resident of Village-
Laxmipur, P.S.- Barari, District- Katihar.

... .. Respondents
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Appearance :

For the Appellant : Mr. Amit Kumar Anand, Advocate.
For the State : Mr. Binay Krishna, APP
For the Informant : Mr. Suresh Pd. Sah @ Baranwal, Advocate.
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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

5 20-11-2019 Heard learned counsel for the appellant and learned
APP for the State.

2. The present appeal has been filed “*against the order dated 07.06.2019 passed in A.B.P. No. 39 of 2019/CIS No. 39 of 2019 by the learned 1st Additional Sessions Judge--cum- Special Judge (SC/ST), Purnea in connection with SC/ST P.S. Case No. 60 of 2015 registered for the offences under Section 420, 406, 323, 504, 506 of the Indian Penal Code and Section 3(i)(x) of the SC/St Act.*”

3. It is submitted that the dispute between the parties relates to hostel fees paid by the informant for his son studying in the school of which the appellant is the Director. It is submitted that it had been agreed that the informant will pay Rs. 1,00,000/- by way of hostel fees for his son and no school fee would be charged but after about a year, the informant withdrew his son from his school but demanded refund the entire amount of Rs. 1,00,000/- which was refused by the appellant. The



ingredients of the offence under SC/ST Act are not attracted in the absence of the alleged occurrence said to have transpired in the petitioner's office and hence not within public view. It is therefore submitted that the bar against grant of anticipatory bail in terms of Section 18 of the SC/ST Act is not applicable. It is further submitted that the transaction between the parties is of civil nature and no offence as alleged is made out against the appellant. There is inordinate delay in lodging the F.I.R. on 07.11.2015 for the alleged occurrence of 27.09.2015. The appellant claims clean antecedents.

4. Learned APP assisted by learned counsel for the informant appears and has been heard.

5. Be that as it may, in the event of the appellant's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named appellant be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned 1st Additional Sessions Judge-cum-Special Judge (SC/ST), Purnea in connection with SC/ST P.S. Case No. 60 of 2015, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions -

(i) That one of the bailors shall be a close relative of the appellant.

(ii) That the appellant shall not indulge in any similar offence till conclusion of the trial.

(iii) That the appellant shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the appellant shall remain physically present in Court on each and every date during trial and in the event of



failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

6. The impugned order as concerns the present appellant is set aside. The appeal is allowed.

(Vikash Jain, J)

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