

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3005 of 2019**

Arising Out of PS. Case No.-310 Year-2017 Thana- DAUDNAGAR District- Aurangabad

BABLU KUMAR Son of Harinarayan Yadav @ Harinarayan Singh Resident
of Village- Trari (Tola KurbanBigha), P.S.- Daudnagar, District- Aurangabad.
... .. Appellant

Versus

The State of Bihar Respondent

Appearance :

For the Appellant/s : Mr.Krishna Kant Tiwari
For the Respondent/s : Mr.Usha Kumari 1

**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL ORDER

5 16-11-2019 An order, dated 29.03.2019 passed by the learned 1st
Additional Sessions Judge-cum-Special Judge (SC/ST) Act,
Aurangabad, in an application for anticipatory bail in
connection with Daudnagar SC/ST P.S. Case No. 310 of 2017
registered for the offence punishable under Sections 147, 148,
149, 452, 427, 380, 323 and 504 of the Indian Penal Code and
Sections 3(1)(r), 3(1)(s), 3(1)(t) and 3(1)(z) of the Scheduled
Caste and the Scheduled Tribes (Prevention of Atrocities) Act,
1989, is under challenge in the present appeal preferred under
Section 14-A(2) of the Act, the prayer for anticipatory bail has
been rejected by the court below in view of bar under Section 18
of the Act.

Learned counsel appearing on behalf of the appellant
has submitted that even if what has been alleged in the First
Information Report is treated to be correct, no offence under the



provisions of the Act can be said to be made out and, therefore, bar under Section 18 of the Act shall have no application.

I have perused the First Information Report and I find substance in submission made on behalf of the appellant. There is allegation in the First Information Report that the named accused persons entered into the house of the informant and dragged out his daughter outside from the house and took away a box from his house. Next day, the accused persons are said to have again come and demolished the informant's house and took away his belongings.

Learned counsel appearing on behalf of the appellant appears to be correct in his submission that there is no allegation that the said offence was committed because the informant belonged to Scheduled Caste/Scheduled Tribe. So as to constitute an offence under Section 3(1)(r) and 3(1)(s) of the Act ingredients of intentional insult or intimidation with an intent to humiliate a member of Scheduled Caste in any place within public view is a *sine qua non*. He is also correct in his submission that Section 3(1)(t) of the Act does not apply at all which relates to obstruction or damage of an object generally held to be sacred and in high esteem by the members of Scheduled Castes or Scheduled Tribes.



Since I am of the *prima facie* view, after going through the First Information Report, that no offence under the provisions of the Act is made out, Section 18 of the Act could not have been a bar for the court below to consider the case of the appellant for his release on anticipatory bail. The impugned order is accordingly set aside. This appeal is allowed. The prayer for anticipatory bail is also allowed.

Let the appellant above named, in the event of his arrest/surrender within two weeks from today in the Court below, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge SC/ST Act, Aurangabad, in connection with Daudnagar SC/ST P.S. Case No. 310 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

This is subject to the condition that the appellant shall present himself before the Police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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