

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2872 of 2019

Arising Out of PS. Case No.-24 Year-2019 Thana- BISHWAMBHARPUR District-
Gopalganj

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Shailesh Kumar Ram Son of Puran Ram Resident of Village - Binod
Matihaniya, P.S.- Bishambharpur, District- Gopalganj

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Harendra Prasad
For the Respondent/s : Mr. Sadanand Paswan

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**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

5 17-09-2019 Heard learned counsel for the appellant and learned
Special Public Prosecutor for the State.

This is an appeal under Section 14(A)(2) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter in short referred to as the
'SC/ST Act') against the refusal of prayer of anticipatory bail
vide order dated 19.06.2019 passed by learned 1st Additional
Sessions Judge, Gopalganj in connection with Bishambharpur
P.S. Case No. 24 of 2019 registered under Sections 406, 420,
323 & 504/34 of the Indian Penal Code and Section 3 (va) of the
Scheduled Castes and Scheduled Tribes (Prevention of
Atrocities) Act.

On the introduction and assurance given by the



appellant, informant paid Rs.3,25,000.00 to co-accused Ajay Kumar Singh for managing job for him in the Indian Army, who also obtained certificates and photographs etc. for the said purpose but did not manage the job for him and on demand of money by the informant the said Ajay Kumar Singh agreed to pay back his money on stamp paper of Rs.50.00 and did not return his money. Thus, both the accused persons have devoured the aforesaid money by playing fraud.

It is submitted by learned counsel for the appellant that no such occurrence as alleged ever took place. He has neither introduced co-accused Ajay Kumar Singh nor taken any money nor promised to return the same. As a matter of fact, co-accused Ajay Kumar Singh has taken money from the informant for managing job for the informant in the Indian Army. Appellant has not devoured any money of the informant. 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. Appellant has no criminal antecedent.

Learned Spl. PP for the State opposed the prayer



for bail.

In the facts and circumstances of the case, the above named appellant, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge, Gopalganj in connection with Bishambharpur P.S. Case No. 24 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

(Prakash Chandra Jaiswal, J)

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