

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.3025 of 2019

Arising Out of PS. Case No.-3801 Year-2015 Thana- VAISALI COMPLAINT CASE
District- Vaishali

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KUNAL KUMAR @ KUNAL THAKUR Son of Achutanand Thakur
Resident of Village- Pahetiya, Police Station- Hajipur Sadar in the District of
Vaishali.

... .. Appellant/s

Versus

1. The State of Bihar
2. Faujdar Ram @ Faudar Ram Son of Late Pagal Ram Resident of Village-
Shembhapur, Police Station- Sarai in the district of Vaishali.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Ranjeet Kumar
For the Respondent/s : Mr.Sadanand Paswan

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

ORAL ORDER

5 16-11-2019 Heard learned counsel for the parties.

By an order dated 11.06.2019, passed by learned
Additional Sessions Judge-I, Vaishali at Hajipur in ABP No.
1231 of 2019, the petitioner's application for anticipatory
bail, arising out of Complaint Case No. 3801 of 2015,
registered for the offence punishable under Sections 420,
384/34 of the Indian Penal Code and Section 3(1)(x) of the
Scheduled Castes and the Scheduled Tribes (Prevention of
Atrocities) Act, 1989 (hereinafter referred to as 'the Act') has
been rejected as not maintainable in view of the bar under
Section 18 of the Act. The said order is under challenge in



the present appeal preferred under Section 14 (A)(2) of the Act.

It is alleged in the complaint petition that the accused persons including the appellant had approached the complainant with a proposal to take on lease a piece of his land for the purpose of establishing a camp office for storing materials and machines for construction of a road. They claimed to be representing Gammon India Limited, a construction Company. Allegedly, even after expiry of the period of agreement, the accused persons continued to occupy the land. Complainant is said to be belonging to Scheduled Caste.

Learned counsel appearing on behalf of the appellant has contended that even if what has been alleged in the complaint petition is treated to be correct, no offence can be said to be made out under the provisions of Section 3(1)(x) of the Act.

I am, *prima facie*, satisfied with the submissions so advanced on behalf of the appellant. Section 3(1)(x) of the Act reads thus :-

“3(1)(x) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place



within public view;”

There is no allegation in the complaint petition that the appellant corrupted or fouled the water of spring reservoir or any other source ordinarily used by the members of the Scheduled Castes, so as to make out a case under the provisions of the Act.

Since no offence appears to be made out under the Act, bar under Section 18 of the Act shall have no application. The impugned order dated 11.06.2019 is, therefore, unsustainable and is accordingly is set aside. The prayer made on behalf of the appellant for grant of anticipatory bail is allowed, considering the nature of accusation.

Let the appellant, above named, in the event of his arrest/ surrender before the 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 learned Additional Sessions Judge-I-cum- Special Judge, Vaishali at Hajipur, in connection with Complaint Case No. 3801 of 2015, 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 petitioner 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)

Rajesh/-

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