

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.3749 of 2019**

Arising Out of PS. Case No.-347 Year-2018 Thana- MASHRAK District- Saran

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Jitendra Prasad Kushwaha S/o- Haribhajan Kushwaha @ Haribhajan Prasad Kushwaha Resident of Village- Sankauli, P.S.- Masrakh, District- Saran at Chapra.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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**Appearance :**

|                      |   |                           |
|----------------------|---|---------------------------|
| For the Appellant/s  | : | Mr. Rabindra Kumar Tiwari |
| For the Informant    | : | Mr. Subhash Kumar Jha     |
| For the Respondent/s | : | Mr. Binay Krishna         |

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

ORAL ORDER

3      16-10-2019                      Heard learned counsel for the appellant, learned counsel for the informant and learned Spl. PP for the State.

This is an appeal under Section 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act against the refusal of prayer of anticipatory bail vide order dated 18.07.2019 passed by learned 1<sup>st</sup> Addl. District & Sessions Judge cum Special Judge, SC/ST, Saran at Chapra in Mashrakh P.S. Case No. 347 of 2018 registered under Sections 341, 323, 504/34 of the Indian Penal Code and Section 3(1)(R)(W) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

On demanding money by the informant from the



appellant Jitendra Prasad Kushwaha, he slated the informant in the name of his caste and assaulted him by means of leg and fist and pressed his neck by means of leg inflicting injury on his head and ear. In the meantime, younger brother of the appellant Vishwajit Kumar arrived there and assaulted the informant.

It is submitted by learned counsel for the appellant that the appellant has no concern with the aforesaid occurrence. As a matter of fact, appellant runs shop of cloth and the informant has purchased cloth from his shop on credit and on demand of money by the appellant, informant has lodged this case with altogether wrong and concocted allegation against the appellant to devour his money. Informant has not sustained injury in the occurrence. There is inordinate and abnormal delay of ten months in lodging the FIR without assigning any plausible explanation for the same, which creates serious doubt about the prosecution case. Appellant has no criminal antecedent. Co-accused, namely, Bishwajeet Kumar @ Bishwajeet Prasad has been enlarged on anticipatory bail by a co-ordinate Bench of this Court vide order dated 21.05.2019 passed in Cr. Appeal (SJ) No. 1412 of 2019.

Per contra, learned Spl. PP for the State and learned counsel for the informant opposing the bail prayer of the



appellant submitted that the appellant had taken money from the informant, and on demand of the same, he slated and assaulted the informant. Appellant has lodged a case of kidnapping against the informant in order to mount pressure upon him to withdraw the case under hand lodged against him, hence, the appellant does not deserve bail.

In the facts and circumstances of the case, let the above named appellant be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned 1<sup>st</sup> Addl. District & Sessions Judge cum Special Judge, SC/ST, Saran at Chapra in Mashrakh P.S. Case No. 347 of 2018, subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

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

**(Prakash Chandra Jaiswal, J)**

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