

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5128 of 2019**

Arising Out of PS. Case No.-404 Year-2019 Thana- BARACHATTI District- Gaya

Gautam Pathak S/o Hari Keshwar Pathak Resident of Siriyawa, Mohanpur,
P.S.- Barachatti Mohanpur District- Gaya (Bihar)

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Kunal Tiwary, Advocate
For the Respondent/s : None

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 12-12-2019 Heard learned counsel for the appellant and learned
Spl.P.P. for the State.

Appellant, in the present appeal, is challenging the order dated 23.09.2019 passed in A.B.P. No. 241 of 2019 arising out of Barachatti Mohanpur P.S. Case No. 404 of 2019 registered under Sections 341/323/504/506/34 of the Indian Penal Code and Sections 3(i)(r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

By the impugned order the prayer for anticipatory bail of the appellant has been rejected by the learned Special Judge, SC/ST, Gaya.

Learned counsel for the appellant submits that in fact the present case is a counterblast to the earlier two cases lodged from the appellant side, the first case was lodged by the friend



of this appellant. Learned counsel submits that informant's cousin brother has used filthy language about the girls of a particular community which gave Barachatti, Mohanpur P.S. Case No. 753 of 2018 in which the police has arrested the cousin brother of the informant and he was taken in judicial custody. In the present case the FIR has been lodged with regard to the alleged occurrence which took place on 13.08.2019 after a lapse of 19 days and the FIR is nothing to result of afterthought. Moreover, from the allegation made therein learned counsel has been able to demonstrate that except bald allegations that this appellant had abused the informant, there is no specific allegation against him which may attract the provisions of the SC/ST Act.

No one appears for the State to oppose this appeal.

Considering the aforesaid aspect of the matter which have been demonstrated before this Court, the impugned order dated 23.09.2019 passed in A.B.P. No. 241 of 2019 arising out of Barachatti Mohanpur P.S. Case No. 404 of 2019 by learned Exclusive Special Judge, SC/ST, Gaya is hereby set aside. The appeal is allowed.

Let the appellant above named, in the event of his arrest or surrender within a period of four weeks from today be



enlarged on bail on furnishing bail bonds of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, SC/ST, Gaya in connection with Barachatti Mohanpur P.S. Case No. 404 of 2019, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. i.e. :

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

vats/ved

U		T	
---	--	---	--

