

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No 1420 of 2020**

Arising Out of PS. Case No.-701 Year-2019 Thana- FATUA District- Patna

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BISHNU KUMAR @ VISHNU KUMAR S/o Dinanath Yadav @ Dinanath Prasad R/o Mohalla- Ruia Mahadeo Sora Kothi, P.S.- Fatuha, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar
2. Kamlesh Paswan S/o Balgovind Paswan R/o Bari Kewai, P.S.- Shahjahanpur, District- Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Ms Nirmala Kumari, Advocate

For the Respondent/s : Mr Sadanand Paswan, Special PP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 06-10-2020

As of now, the Courts have not resumed normal physical hearing. The matter has been listed today for consideration through Video Conferencing.

2 Learned counsels are appearing and making submissions from their residence. The Court Master and Secretary are also part of this virtual Court proceedings with the aid of audio visual technology.

3 Heard learned counsel for the appellant and the learned Special PP for the State.

4 This appeal has been filed by the appellant against the order dated 29.02.2020 passed by Additional Sessions Judge



VIII -cum- Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (for brevity, SC/ST Act), Patna by which Anticipatory Bail Petition No 1406 of 2020, seeking bail in a case registered under Sections 147, 148, 149, 341, 342, 323, 324, 307, 353, 333, 120B, 504 of Indian Penal Code, Sections 25 (1-B) a, 26/35 of Arms Act and Sections 3 (i) (r) (s) of SC/ST Act, has been rejected.

5 Learned counsel for the appellant submits that the present appellant is not named in the First Information Report, but only on the basis of confession made before the police by co-accused Rajnish @ Tullu, who was apprehended with a pistol, that the appellant was also one of those who was seen fleeing away from the place of occurrence, the appellant has been named. It is further submitted that the provisions of SC/ST Act have been super added only to make the charge graver though no offence is made out under the said Act against the appellant.

6 The learned Special PP has opposed the prayer for anticipatory bail. It is submitted that the case has been lodged under SC/ST Act and prayer for anticipatory bail would not be maintainable.

7 In view of the law laid down by the Apex Court in



the case of *Vilas Pandurang Pawar -Versus- State of Maharashtra, (2012) 8 Supreme Court Cases 795*, for the limited purpose of consideration for grant of anticipatory bail, this Court is inclined to accept the submission advanced by learned counsel for the appellant.

8 In the event of his arrest or surrender within four weeks from today, the appellant above named shall be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Sessions Judge VIII -cum- Special Judge, SC/ST Act, Patna in Special Case No 486 of 2019 arising out of Fatuha Police Station Case No 701 of 2019 subject to the conditions as laid down in Section 438 (2) of Criminal Procedure Code and also the following conditions:

(i) That one of the bailors will be a close relative of the appellant who will give an affidavit giving genealogy as to how he is related with the appellant. The bailor will also undertake to inform the Court if there is any change in the address of the appellant.

(ii) That the appellant will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.



9 This appeal is, accordingly, allowed and the order dated 29.02.2020, passed by Additional Sessions Judge VIII -cum- Special Judge, SC/ST Act, Patna in Anticipatory Bail Petition No 1406 of 2020, is set aside.

10 Learned counsel for the appellant is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.10.2020
Transmission Date	09.10.2020

