

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4574 of 2019

Arising Out of PS. Case No.-185 Year-2018 Thana- ROSHANGANJ District- Gaya

1. MITENDRA KUMAR, Son of Udal Prasad
2. Sunil Kumar @ Sushil Kumar, Son of Udal Prasad
3. Udal Prasad, Son of Shyam Lal Prasad, All Residents of Village - Jamuyara Kala, P.S - Rasaunganj, District - Gaya

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Md. Javed Jafar Khan, Advocate
For the Respondent/s	:	Mr. Sadanand Paswan, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 29-01-2020

Heard learned counsel for the parties.

This is an appeal under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the “SC/ST Act”) against the refusal of prayer for anticipatory bail vide order dated 04.09.2019 in A.B.P. No. 205 of 2019 passed by the learned Special Judge S.C./S.T., Gaya in connection with Raushanganj P.S. Case No. 185 of 2018 registered under Sections 341, 323, 354, 427, 504/34 of the Indian Penal Code as well as Sections 3(i)(r)(s)(W)(I)(II)(2)(va) of the SC/ST Act.

The FIR, prima facie, discloses offence under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act for the purpose of consideration of prayer for anticipatory bail.



In the circumstance, application under Section 438 Cr.P.C. is not maintainable in view of the specific bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. If the application is itself not maintainable for simple reason that there is accusation of commission of offence under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the Court cannot look into the merit of the accusation or background and reason for the accusation in an application under Section 438 Cr.P.C.

Therefore, I do not find any reason to interfere with the impugned order. Accordingly, this appeal stands dismissed as devoid of any merit.

However, in the event of surrender of the appellants, prayer for regular bail shall be considered without being prejudiced by this order specially considering the fact that some of the appellants were not sent up for trial by the police after investigation of the case.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	01.02.2020
Transmission Date	01.02.2020

