

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5370 of 2019**

Arising Out of PS. Case No.-140 Year-2019 Thana- BIDUPUR District- Vaishali

1. DILIP SINGH @ DILIP KUMAR SINGH Son of - Kantlal Singh
2. Anil Singh @ Anil Kumar Singh Son of - Kantlal Singh
3. Kalu Singh @ Dipak Kumar Son of - Anil Singh
All Resident of Basantpur Kakarhata, P.S.- Bidupur, District- Vaishali.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vasant Vikas, Adv
For the Respondent/s : Mr.Sadanand Paswan, APP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT**

Date : 21-01-2020

Heard learned counsel for the parties.

There is delay of 89 days in preferring this appeal. The delay is explained in an application under Section 5 of the Limitation Act vide I.A.No.01 of 2019. Hence, the delay is condoned.

I.A.No.01 of 2019 stands disposed of.

This is an appeal under Sections 14(A)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, against refusal of the prayer for anticipatory bail by order dated 28.05.2019 in A.B.P. No.1227 of 2019 arising out of Bidupur P.S.Case No.140 of 2019 passed by the learned Additional Sessions Judge-I-cum-Special Judge, Vaishali at



Hajipur registered under Sections 323,341,379,380,354/34 of the Indian Penal Code and Sections 3(1)(x) of the Scheduled Castes and Scheduled Tribes Act.

The complaint based allegation prima facie discloses commission of offence under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, hence, application under Section 438 Cr.P.C. is barred in view of the provisions of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

If the application under Section 438 I.P.C. is itself barred, correctness and trustworthiness of the allegation cannot be looked into in an application under Section 438 I.P.C. as Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act reads as follows:

“Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.”

Therefore, in my view, this appeal against refusal of prayer for anticipatory bail has got no merit. Accordingly, it stands dismissed.



In the event of surrender of the appellants, prayer for regular bail shall be considered without being prejudiced by this order.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.01.2020
Transmission Date	22.01.2020

