

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5273 of 2019**

Arising Out of PS. Case No.-84 Year-2017 Thana- VAISALI COMPLAINT CASE District-
Vaishali

=====

MAHESH KUMAR BHAGAT @ MAHESH BHAGAT Son of Shri Ram
Sharan Bhagat Resident of Mohalla - Panchwati Chouk, Ward No. Gangjala,
P.S. and District- Saharsa Presently posted as Block Programme Officer
(MNREGA) at Patepur Block, District - Vaishali at Hajipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Appellant/s : Mr.Pramod Mishra, Advocate.

For the Respondent/s : Mr.Sadanand Paswan, Spl.PP.

=====

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

5 20-02-2020

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 against the refusal of prayer for
anticipatory bail vide order dated 7.11.2019 by the learned 1st
Addl. Sessions Judge cum Special Judge, Hajipur, Vaishali in
A.B.A. No. 2802 of 2019, arising out of C-1 No. 84 of 2017
registered under Section 3(i)(x) of the Scheduled Castes and
Scheduled Tribes (Prevention of Atrocities) Act, 1989.

According to complaint petition, the appellant was
posted as Programme Officer and the complainant was working
under him as Panchayat Rojgar Sewak (MNREGA). Allegation



is of commission of abuse and assault.

Learned counsel for the appellant submits that the date of occurrence alleged is 02.08.2016 and the complaint was filed in the year 2017 i.e. on 12.10.2017. Prior to filing of the complaint petition, the appellant had received certain complaint against the complainant of this case and on 15.09.2017 vide order at Annexure-4 the complainant was transferred to the Block Headquarter by the appellant and just to take revenge, the complaint petition has been filed.

Learned counsel for the complainant submits that, in fact, appellant is not the authority competent to take any action against the complainant and the order of the appellant regarding transfer did not take effect rather the complainant was transferred in the year 2018 under order of the District Collector.

Considering the entire factual matrix aforesaid as well as guidelines in the judgment of Hon'ble Supreme Court in the case of Prathvi Raj Chauhan Vs. Union of India & Ors. passed in Writ Petition (C) No. 1015/2018, in my view, the appellant deserves protection of law to prevent miscarriage of justice. Hence, let the appellant, above named, in the event of his arrest or surrender before the Court below within a period of thirty



days from the date of receipt of the order, be released on bail, on furnishing bail bonds of Rs. 20,000/- (Twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with the aforesaid case, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C as well as following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.

(b) The appellant shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the appellant.

(c) The appellant shall not leave the country without permission of the trial Court.

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

(Birendra Kumar, J)

mantreshwar/-

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

