

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1431 of 2021**

Arising Out of PS. Case No.-236 Year-2017 Thana- MADHAURAH District- Saran

SANTOSH PRASAD @ SANTOSH KUMAR PRASAD Son of Satrugshan Prasad @ Anand Kumar Prasad Resident of Village- Bind Bahuara, P.S.- Marhowrah, District- Saran at Chapra.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Satya Prakash
For the Respondent/s : Mr.Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

2 04-09-2021 Heard learned counsel for the appellant and learned Special P.P. for the State through virtual mode.

Learned counsel for the appellant submits that the limitation, as pointed out by the office, be condoned in the light of the order dated 08.03.2021, passed by the Hon'ble Apex Court, in Suo Motu Writ Petition (Civil) No. 03 of 2020.

Considering the submissions made on behalf of learned counsel for the appellant, the limitation, as pointed out by the office, is condoned.

Learned counsel for the appellant is directed to remove the defects, as pointed out by the Office, within a period of four weeks after restoration of normalcy.

The appellant has challenged the order dated 15.10.2020 passed by learned 1st Additional Sessions Judge, Saran at Chapra in



ABP No. 2099 of 2020 in connection with Marhowrah P.S. Case No. 236 of 2017 registered for the offences under sections 341, 323, 504, 436, 504, 379/34 of the Indian Penal Code and 3(i)(r)(r), 3(2)(va) of the SC/ST (Prevention of Atrocities) Act whereby the prayer made on behalf of the appellant for grant of anticipatory bail has been rejected.

Prosecution allegation, in short, is that accused persons came and started abusing the informant and when the informant protested, he was pushed by them. The family members came in rescue but the accused persons fled away.

It has been submitted on behalf of the appellant that the appellant has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellant. The appellant has falsely been implicated in the present case. General and omnibus allegation has been made against the appellant. There is admitted land dispute between the parties. Vide Annexure-A-3, final form was submitted against the appellant but the Court below differed with the same and took cognizance against the appellant. Vide Annexure-A-5 to this appeal, co-accused have been granted anticipatory bail by a Coordinate Bench of this Court. The alleged occurrence has not taken place within public view. Hence, no offence under SC/ST Act is made out in the present case.

On behalf of the State, it is submitted that the appellant is named in the F.I.R.



Considering the aforesaid facts and circumstances, the order dated 15.10.2020 passed by learned 1st Additional Sessions Judge, Saran at Chapra in ABP No. 2099 of 2020 in connection with Marhowrah P.S. Case No. 236 of 2017, is set aside.

The appeal stands allowed.

Let the appellant above named, in the event of arrest/surrender before the learned court below within a period of twelve weeks from today, be released on anticipatory bail on his personal bond to the satisfaction of learned 1st Additional Sessions Judge, Saran at Chapra in connection with Marhowrah P.S. Case No. 236 of 2017.

Once the normalcy is restored, the appellant shall furnish bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each within a period of eight weeks to the satisfaction of the Court concerned in connection with the aforesaid case.

(Sudhir Singh, J)

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