

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.1832 of 2020

Arising Out of PS. Case No.-109 Year-2020 Thana- BARHARA KOTHI District- Purnia

SANJIV SINGH @ SANJIV KUMAR SINGH S/o Maleshwar Singh @
Shyamanand Singh Resident of Village-Mahikhand, P.S.-Barhara
(Raghubansh Nagar), District-Purnea.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Bijendra Kumar Singh

For the Respondent/s : Mr.A.G.

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

2 30-01-2021 Heard learned counsel appearing for the petitioner as
well as learned Spl. Public Prosecutor for the State.

This criminal appeal has been preferred under Section
14A of SC/ST (Prevention of Atrocities) Act, 1989 against the
order dated 15.6.2020 passed by the learned 1st Additional
Sessions Judge – cum – Special Judge, SC/ST Act, Purnea in
Barhara (Raghubansh Nagar) P.S. Case No. 109/2020 registered
under Sections 147, 118, 149, 341, 323, 324, 325, 307, 353, 332,
333, 427, 504, 188, 269, 270, 271 of the Indian Penal Code and
Section 3(i) 9r) (s) 3(2) (va) SC/ST (Prevention of Atrocities) Act
by which and whereunder the learned Special Judge refused to
grant anticipatory bail to the appellant.

As per prosecution case, appellant instigated the other
FIR named co-accused persons, who having entered into Corona
Centre ransacked the belongings of aforesaid Centre and also



abused one Chaukidar calling his caste name.

The learned court below dismissed the petition filed under Section 438 of the Code of Criminal Procedure on behalf of the appellant on the ground that Section 18 of SC ST (Prevention of Atrocities) Act bars to entertain petition under Section 438 of the Code of Criminal Procedure in the cases lodged under the provision of SC ST (Prevention of Atrocities) Act.

Learned counsel appearing for appellant submits that even by reading the contents of written report of informant, it goes to show that no case under SC ST (Prevention of Atrocities) Act is made out against the appellant because according to the prosecution case itself, other FIR named accused are said to have called the victim by his caste name and so far as the appellant is concerned, it is only stated that he instigated the other accused to create hurdle in running of aforesaid Corona Centre.

On the other hand, learned Spl. P.P. supports the finding of learned court below.

The perusal of written report of the informant goes to show that the appellant is said to have instigated the other co-accused but there is nothing in the written report to show that the appellant instigated the other co-accused to humiliate the victim by calling his caste name and, therefore, I do agree with the submission of the learned counsel of the appellant that, prima



facie, no case under SC ST (Prevention of Atrocities) Act is made out against the appellant.

In view of the aforesaid discussion, this appeal is allowed and, accordingly, the impugned order dated 15.06.2020 passed by the learned 1st Additional Sessions Judge – cum – Special Judge, SC/ST Act, Purnea, in Barhara (Raghubansh Nagar) P.S. Case No. 109/2020 is, hereby, set aside and, accordingly, it is ordered that the appellant above named in the event of his arrest/ surrender within six weeks from the date of receipt of this order to the court concerned, shall be released on bail on furnishing bail bonds of Rs 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge – cum – Special Judge, SC/ST Act, Purnea, in in Barhara (Raghubansh Nagar) P.S. Case No. 109/2020 subject to conditions as laid down under Section 438(2) of the Cr.P.C.

(Hemant Kumar Srivastava, J)

Spd/-

U			
---	--	--	--

