

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.56 of 2021**

Arising Out of PS. Case No.-274 Year-2020 Thana- BARHARIA District- Siwan

ASHWINI KUMAR @ BALMIKI Son of Janardhan Prasad @ Sethi @
Janardhan Prasad Sethi Resident of Village - Koiri Gawa, P.S.- Barharia,
Dist.- Siwan.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Jitendra Kumar Singh, Adv.
For the Respondent/s : Mr. Binay Krishna, APP

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

2 28-10-2021 Heard learned counsel for the appellant as well as
learned Addl. P.P. for the State.

Learned counsel for the appellant is directed to
remove all the defects pointed out by the Stamp Reporter within
one month.

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 bail vide
order dated 23.09.2020 passed by learned 1st Additional Session
Judge-cum-Spl. Judge, Siwan in connection with A.B.P. No.
1948 of 2020 arising out of Barharia P.S. Case No. 274 of 2020
registered for offence punishable under sections 341, 323, 504,
506/34 of the Indian Penal Code and 3(1)(r)(s) whereby and



whereunder the prayer for anticipatory bail on behalf of the appellant has been rejected.

As per allegation, the informant's wife Rambha Devi is a ward member of gram panchayat raj, Koeri Gawa. Allegedly, the appellant asked the informant on telephone as to where he was. Thereafter, he abused the informant by calling his caste name.

Learned counsel for the appellant has submitted that admittedly the wife of the informant is a ward member, whereas the mother of the informant is Mukhiya of that panchayat and a sum of Rs. 6,00,000/- was sanctioned for Nal-Jal Yozana but the wife of the informant did not carry out the said work. As the mother of the appellant was Mukhiya, the appellant asked the wife of the informant as to what was the reason of non-performing of the work of Nal-Jal Yozana. Thereafter, the informant assaulted the appellant's side and in that respect on the same day of occurrence, the appellant has also lodged a case, bearing Barharia P.S. Case No. 273 of 2020. He has further submitted that co-accused persons have been granted anticipatory bail in Cr. Appeal (SJ) No. 362 of 2021 by a coordinate Bench of this Court.

From perusal of the xerox copy of case and counter



case it appears that the occurrence did not take place due to malicious feeling of caste. Co-accused persons have been granted anticipatory bail by the coordinate Bench.

Considering the facts and circumstances of the case, the impugned order dated 23.9.2020 is set aside and the appellant, in the event of his arrest or surrender within four weeks from today is directed to be enlarged 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 Session Judge-cum-Spl. Judge, Siwan in connection with Barharia P.S. Case No. 274 of 2020.

Accordingly, this appeal is allowed.

Office shall ensure that all defects are removed by the appellant within the stipulated time provided in para-2 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey , J)

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